

SECOND REGULAR SESSION

SENATE JOINT RESOLUTION NO. 37

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOLSMAN.

Pre-filed December 1, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4113S.01I

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment repealing sections 3, 7, 8, 9, 16, and 19 of article III of the Constitution of Missouri, and adopting six new sections in lieu thereof relating to members of the general assembly.

Be it resolved by the Senate, the House of Representatives concurring therein:

That at the next general election to be held in the state of Missouri, on
2 Tuesday next following the first Monday in November, 2020, or at a special
3 election to be called by the governor for that purpose, there is hereby submitted
4 to the qualified voters of this state, for adoption or rejection, the following
5 amendment to article III of the Constitution of the state of Missouri:

Section A. Sections 3, 7, 8, 9, 16, and 19, article III, Constitution of
2 Missouri, are repealed and six new sections adopted in lieu thereof, to be known
3 as sections 3, 7, 8, 9, 16, and 19, to read as follows:

Section 3. (a) There is hereby established the post of "Nonpartisan State
2 Demographer". The nonpartisan state demographer shall acquire appropriate
3 information to develop procedures in preparation for drawing legislative
4 redistricting maps on the basis of each federal census for presentation to the
5 house apportionment commission and the senatorial apportionment commission.

6 (b) The nonpartisan state demographer shall be selected through the
7 following process. First, state residents may apply for selection to the state
8 auditor using an application developed by the state auditor to determine an
9 applicant's qualifications and expertise relevant to the position. Second, the state
10 auditor shall deliver to the majority leader and minority leader of the senate a
11 list of at least three applicants with sufficient expertise and qualifications, as
12 determined by the state auditor, to perform the duties of the nonpartisan state

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

13 demographer. Third, if the majority leader and minority leader of the senate
14 together agree that a specific applicant should be selected to be the nonpartisan
15 state demographer, that applicant shall be selected and the selection process shall
16 cease. Fourth, if the majority leader and minority leader of the senate cannot
17 together agree on an applicant, they may each remove a number of applicants on
18 the state auditor's list equal to one-third of the total number of applicants on that
19 list, rounded down to the next integer, and the state auditor shall then conduct
20 a random lottery of the applicants remaining after removal to select the
21 nonpartisan state demographer. The state auditor shall prescribe a time frame
22 and deadlines for this application and selection process that both encourages
23 numerous qualified applicants and avoids delay in selection. The nonpartisan
24 state demographer shall serve a term of five years and may be reappointed. To
25 be eligible for the nonpartisan state demographer position, an individual shall not
26 have served in a partisan, elected position for four years prior to the
27 appointment. The nonpartisan state demographer shall be disqualified from
28 holding office as a member of the general assembly for four years following the
29 date of the presentation of his or her most recent legislative redistricting map to
30 the house apportionment commission or the senatorial apportionment
31 commission.

32 (c) The house of representatives shall [consist of one hundred sixty-three
33 members] **be** elected at each general election and apportioned as provided in this
34 section.

35 (1) Within ten days after the population of this state is reported to the
36 President for each decennial census of the United States or, in the event that a
37 reapportionment has been invalidated by a court of competent jurisdiction, within
38 ten days after such a ruling has been made, the nonpartisan state demographer
39 shall begin the preparation of legislative districting plans and maps using the
40 following methods, listed in order of priority:

41 a. Districts shall be established on the basis of total
42 population. Legislative districts shall each have a total population as nearly
43 equal as practicable to the ideal population for such districts, determined by
44 dividing the number of districts to be established into the total population of the
45 state reported in the federal decennial census;

46 b. Districts shall be established in a manner so as to comply with all
47 requirements of the United States Constitution and applicable federal laws,
48 including, but not limited to, the Voting Rights Act of 1965 (as

49 amended). Notwithstanding any other provision of this Article, districts shall not
50 be drawn with the intent or result of denying or abridging the equal opportunity
51 of racial or language minorities to participate in the political process or
52 diminishing their ability to elect representatives of their choice, whether by
53 themselves or by voting in concert with other persons.

54 Districts shall be designed in a manner that achieves both partisan
55 fairness and, secondarily, competitiveness. "Partisan fairness" means that parties
56 shall be able to translate their popular support into legislative representation
57 with approximately equal efficiency. "Competitiveness" means that parties'
58 legislative representation shall be substantially and similarly responsive to shifts
59 in the electorate's preferences.

60 To this end, the nonpartisan state demographer shall calculate the average
61 electoral performance of the two parties receiving the most votes in the three
62 preceding elections for governor, for United States Senate, and for President of
63 the United States. This index shall be defined as the total votes received by each
64 party in the three preceding elections for governor, for United States Senate, and
65 for President of the United States, divided by the total votes cast for both parties
66 in these elections. Using this index, the nonpartisan state demographer shall
67 calculate the total number of wasted votes for each party, summing across all of
68 the districts in the plan. "Wasted votes" are votes cast for a losing candidate or
69 for a winning candidate in excess of the fifty percent threshold needed for victory.
70 In any plan of apportionment and map of the proposed districts submitted to the
71 respective apportionment commission, the nonpartisan state demographer shall
72 ensure the difference between the two parties' total wasted votes, divided by the
73 total votes cast for the two parties, is as close to zero as practicable.

74 To promote competitiveness, the nonpartisan state demographer shall use
75 the electoral performance index to simulate elections in which the hypothetical
76 statewide vote shifts by one percent, two percent, three percent, four percent, and
77 five percent in favor of each party. The vote in each individual district shall be
78 assumed to shift by the same amount as the statewide vote. The nonpartisan
79 state demographer shall ensure that, in each of these simulated elections, the
80 difference between the two parties' total wasted votes, divided by the total votes
81 cast for the two parties, is as close to zero as practicable;

82 c. Subject to the requirements of paragraphs a. and b. of this subdivision,
83 districts shall be composed of contiguous territory. Areas which meet only at the
84 points of adjoining corners are not contiguous;

85 d. To the extent consistent with paragraphs a. to c. of this subdivision,
86 district boundaries shall coincide with the boundaries of political subdivisions of
87 the state. The number of counties and cities divided among more than one
88 district shall be as small as possible. When there is a choice between dividing
89 local political subdivisions, the more populous subdivisions shall be divided before
90 the less populous, but this preference shall not apply to a legislative district
91 boundary drawn along a county line which passes through a city that lies in more
92 than one county;

93 e. Preference shall be that districts are compact in form, but the
94 standards established by paragraphs a. to d. of this subdivision take precedence
95 over compactness where a conflict arises between compactness and these
96 standards. In general, compact districts are those which are square, rectangular,
97 or hexagonal in shape to the extent permitted by natural or political boundaries.

98 (2) Within sixty days after the population of this state is reported to the
99 President for each decennial census of the United States or, in the event that a
100 reapportionment has been invalidated by a court of competent jurisdiction, within
101 sixty days that such a ruling has been made, the congressional district committee
102 of each of the two parties casting the highest vote for governor at the last
103 preceding election shall meet and the members of the committee shall nominate,
104 by a majority vote of the members of the committee present, provided that a
105 majority of the elected members is present, two members of their party, residents
106 in that district, as nominees for reapportionment commissioners. Neither party
107 shall select more than one nominee from any one state legislative district. The
108 congressional committees shall each submit to the governor their list of elected
109 nominees. Within thirty days the governor shall appoint a commission consisting
110 of one name from each list to reapportion [the state into one hundred and
111 sixty-three representative districts] **the house of representatives** and to
112 establish the numbers and boundaries of [said districts] **each district**.

113 If any of the congressional committees fails to submit a list within such
114 time the governor shall appoint a member of his own choice from that district and
115 from the political party of the committee failing to make the appointment.

116 Members of the commission shall be disqualified from holding office as
117 members of the general assembly for four years following the date of the filing by
118 the commission of its final statement of apportionment.

119 For the purposes of this Article, the term congressional district committee
120 or congressional district refers to the congressional district committee or the

121 congressional district from which a congressman was last elected, or, in the event
122 members of congress from this state have been elected at large, the term
123 congressional district committee refers to those persons who last served as the
124 congressional district committee for those districts from which congressmen were
125 last elected, and the term congressional district refers to those districts from
126 which congressmen were last elected. Any action pursuant to this section by the
127 congressional district committee shall take place only at duly called meetings,
128 shall be recorded in their official minutes and only members present in person
129 shall be permitted to vote.

130 (3) Within six months after the population of this state is reported to the
131 President for each decennial census of the United States or, in the event that a
132 reapportionment has been invalidated by a court of competent jurisdiction, within
133 six months after such a ruling has been made, the nonpartisan state demographer
134 shall make public and file with the secretary of state and with the house
135 apportionment commission a tentative plan of apportionment and map of the
136 proposed districts, as well as all demographic and partisan data used in the
137 creation of the plan and map.

138 The commissioners so selected shall, within ten days of receiving the
139 tentative plan of apportionment and map of the proposed districts, meet in the
140 capitol building and proceed to organize by electing from their number a
141 chairman, vice chairman and secretary. The commission shall adopt an agenda
142 establishing at least three hearing dates on which hearings open to the public
143 shall be held to hear objections or testimony from interested persons. A copy of
144 the agenda shall be filed with the clerk of the house of representatives within
145 twenty-four hours after its adoption. Executive meetings may be scheduled and
146 held as often as the commission deems advisable.

147 The commission may make changes to the tentative plan of apportionment
148 and map of the proposed districts received from the nonpartisan state
149 demographer provided that such changes are consistent with this section and
150 approved by a vote of at least seven-tenths of the commissioners. If no changes
151 are made or approved as provided for in this subsection, the tentative plan of
152 apportionment and map of proposed districts shall become final. Not later than
153 two months of receiving the tentative plan of apportionment and map of the
154 proposed districts, the commission shall file with the secretary of state a final
155 statement of the numbers and the boundaries of the districts together with a map
156 of the districts.

157 Each member of the commission shall receive as compensation fifteen
158 dollars a day for each day the commission is in session but not more than one
159 thousand dollars, and, in addition, shall be reimbursed for his actual and
160 necessary expenses incurred while serving as a member of the commission.

161 No reapportionment shall be subject to the referendum.

Section 7. (a) Within ten days after the population of this state is
2 reported to the President for each decennial census of the United States or, in the
3 event that a reapportionment has been invalidated by a court of competent
4 jurisdiction, within ten days after such a ruling has been made, the nonpartisan
5 state demographer authorized in Article III, Section 3 shall begin the preparation
6 of senatorial districting plans and maps using the same methods and criteria as
7 those required by Article III, Section 3 for the establishment of districts for the
8 house of representatives.

9 (b) Within sixty days after the population of this state is reported to the
10 President for each decennial census of the United States, or within sixty days
11 after a reapportionment has been invalidated by a court of competent jurisdiction,
12 the state committee of each of the two political parties casting the highest vote
13 for governor at the last preceding election shall, at a committee meeting duly
14 called, select by a vote of the individual committee members, and thereafter
15 submit to the governor a list of ten persons, and within thirty days thereafter the
16 governor shall appoint a commission of ten members, five from each list, to
17 reapportion the [thirty-four] senatorial districts and to establish the numbers and
18 boundaries of said districts.

19 If either of the party committees fails to submit a list within such time the
20 governor shall appoint five members of his own choice from the party of the
21 committee so failing to act.

22 Members of the commission shall be disqualified from holding office as
23 members of the general assembly for four years following the date of the filing by
24 the commission of its final statement of apportionment.

25 (c) Within six months after the population of this state is reported to the
26 President for each decennial census of the United States or in the event that a
27 reapportionment has been invalidated by a court of competent jurisdiction, within
28 six months after such a ruling has been made, the nonpartisan state demographer
29 shall file with the secretary of state and with the senatorial apportionment
30 commission a tentative plan of apportionment and map of the proposed districts.

31 The commissioners so selected shall within ten days of receiving the

32 tentative plan of apportionment and map of the proposed districts required by
33 this subsection, meet in the capitol building and proceed to organize by electing
34 from their number a chairman, vice chairman and secretary. The commission
35 shall adopt an agenda establishing at least three hearing dates on which hearings
36 open to the public shall be held to hear objections or testimony from interested
37 persons. A copy of the agenda shall be filed with the secretary of the senate
38 within twenty-four hours after its adoption. Executive meetings may be
39 scheduled and held as often as the commission deems advisable. The commission
40 may make changes to the tentative plan of apportionment and map of the
41 proposed districts received from the nonpartisan state demographer provided that
42 such changes are consistent with this section and the methods and criteria
43 required by Section 3 of this Article [for the establishment of districts for the
44 house of representatives] and approved by a vote of at least seven-tenths of the
45 commissioners. If no changes are made or approved as provided for in this
46 subsection, the tentative plan of apportionment and map of proposed districts
47 shall become final. Not later than two months after receiving the tentative plan
48 of apportionment and map of the proposed districts, the commission shall file
49 with the secretary of state a final statement of the numbers and the boundaries
50 of the districts together with a map of the districts.

51 Each member of the commission shall receive as compensation fifteen
52 dollars a day for each day the commission is in session, but not more than one
53 thousand dollars, and, in addition, shall be reimbursed for his **or her** actual and
54 necessary expenses incurred while serving as a member of the commission.

55 No reapportionment shall be subject to the referendum.

Section 8. **1.** No one shall be elected to serve more than [eight] **sixteen**
2 years total in [any one house of] the General Assembly [nor more than sixteen
3 years total in both houses of the General Assembly]. In applying this section,
4 service in the General Assembly resulting from an election prior to December 3,
5 1992, or service of less than one year, in the case of a member of the house of
6 representatives, or two years, in the case of a member of the senate, by a person
7 elected after the effective date of this section to complete the term of another
8 person, shall not be counted. **Service in the general assembly prior to**
9 **January 6, 2021, by a person who has not exhausted the term limits**
10 **imposed by this section as of such date shall not be counted.**

11 **2.** No one elected to serve in the General Assembly shall serve
12 **more than four years in each of the following positions:**

- 13 **(1) Speaker of the House of Representatives;**
- 14 **(2) President pro tempore of the Senate;**
- 15 **(3) Majority leader of the House of Representatives;**
- 16 **(4) Majority leader of the Senate;**
- 17 **(5) Minority leader of the House of Representatives; or**
- 18 **(6) Minority leader of the Senate.**

Section 9. Until the convening of the [Seventy-fourth] **One Hundred**
2 **Second** General Assembly the House of Representatives shall consist of one
3 hundred sixty-three members elected from the one hundred sixty-three
4 representative districts, as they existed [January 1, 1965] **during the One**
5 **Hundred First General Assembly. Beginning with the One Hundred**
6 **Second General Assembly the House of Representatives shall consist of**
7 **one hundred thirty-six members elected from house districts**
8 **apportioned pursuant to section 3 of this article.**

Section 16. 1. Senators and representatives shall receive from the state
2 treasury as salary such sums as are provided by law. No law fixing the
3 compensation of members of the general assembly shall become effective until the
4 first day of the regular session of the general assembly next following the session
5 at which the law was enacted. Upon certification by the president and secretary
6 of the senate and by the speaker and chief clerk of the house of representatives
7 as to the respective members thereof, the state comptroller shall audit and the
8 state treasurer shall pay such compensation without legislative enactment. Until
9 otherwise provided by law senators and representatives shall receive one dollar
10 for every ten miles traveled in going to and returning from their place of meeting
11 while the legislature is in session, on the most usual route.

12 **2.** Until otherwise provided by law, each senator or representative shall
13 be reimbursed from the state treasury for the actual and necessary expenses
14 incurred by him in attending sessions of the general assembly in the sum of ten
15 dollars (\$10.00) per day for each day on which the journal of the senate or house
16 respectively shows the presence of such senator or representative. Upon
17 certification by the president and secretary of the senate and by the speaker and
18 chief clerk of the house of representatives as to the respective members thereof,
19 the state comptroller shall approve and the state treasurer shall pay monthly
20 such expense allowance without legislative enactment.

21 **3. Beginning with the one hundred second general assembly and**
22 **on the first day of each successive general assembly, the compensation**

23 of members of the general assembly shall be increased by the increase
24 in the cost of living. On September 30, 2022, and on each September
25 thirtieth of each successive even-numbered year, the secretary of the
26 senate shall measure the increase in the cost of living by the
27 percentage increase as of the preceding July over the level as of July
28 of the second preceding year of the Consumer Price Index for Urban
29 Wage Earners and Clerical Workers (CPI-W) or successor index as
30 published by the United States Department of Labor or its successor
31 agency, with the amount of compensation increase rounded to the
32 nearest dollar.

Section 19. (a) Senators and representatives shall, in all cases except
2 treason, felony, offenses under this Article, or breach of the peace, be privileged
3 from arrest during the session of the general assembly, and for the fifteen days
4 next before the commencement and after the termination of each session; and
5 they shall not be questioned for any speech or debate in either house in any other
6 place.

7 (b) a. Legislative records shall be public records and subject to generally
8 applicable state laws governing public access to public records, including the
9 Sunshine Law. Legislative records include, but are not limited to, all records, in
10 whatever form or format, of the official acts of the general assembly, of the official
11 acts of legislative committees, of the official acts of members of the general
12 assembly, of individual legislators, their employees and staff, of the conduct of
13 legislative business and all records that are created, stored or distributed through
14 legislative branch facilities, equipment or mechanisms, including electronic,
15 provided that the following shall not be considered a legislative record
16 and shall not be subject to any state laws governing public access to
17 public records, including the Sunshine Law:

18 i. The work product of an employee or staff member of a member
19 of the general assembly;

20 ii. The work product of an employee of the house of
21 representatives or the senate; and

22 iii. Communications between members of the general assembly.

23 b. Each member of the general assembly is the custodian of legislative
24 records under the custody and control of the member, their employees and
25 staff. The chief clerk of the house or the secretary of the senate are the
26 custodians for all other legislative records relating to the house and the senate,

27 respectively.

28 (c) Legislative proceedings, including committee proceedings, shall be
29 public meetings subject to generally applicable law governing public access to
30 public meetings, including the Sunshine Law. Open public meetings of legislative
31 proceedings shall be subject to recording by citizens, so long as the proceedings
32 are not materially disrupted.

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Unofficial

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