

FIRST REGULAR SESSION

# HOUSE JOINT RESOLUTION NO. 41

## 100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FITZWATER.

1824H.011

DANA RADEMAN MILLER, Chief Clerk

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### JOINT RESOLUTION

Submitting to the qualified voters of Missouri an amendment repealing Sections 3, 5, 7, and 8 of Article III of the Constitution of Missouri, and adopting four new sections in lieu thereof relating to the general assembly.

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

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

Section A. Sections 3, 5, 7, and 8, Article III, Constitution of Missouri, are repealed and four new sections adopted in lieu thereof, to be known as Sections 3, 5, 7, and 8 to read as follows:

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

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

27 (c) The house of representatives shall consist of one hundred ~~[sixty-three]~~ **twenty**  
28 members elected at each general election and apportioned as provided in this section.

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

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

38 b. Districts shall be established in a manner so as to comply with all requirements of the  
39 United States Constitution and applicable federal laws, including, but not limited to, the Voting  
40 Rights Act of 1965 (as amended). Notwithstanding any other provision of this Article, districts  
41 shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial  
42 or language minorities to participate in the political process or diminishing their ability to elect  
43 representatives of their choice, whether by themselves or by voting in concert with other persons.

44 Districts shall be designed in a manner that achieves both partisan fairness and,  
45 secondarily, competitiveness. "Partisan fairness" means that parties shall be able to translate  
46 their popular support into legislative representation with approximately equal efficiency.

47 "Competitiveness" means that parties' legislative representation shall be substantially and  
48 similarly responsive to shifts in the electorate's preferences.

49 To this end, the nonpartisan state demographer shall calculate the average electoral  
50 performance of the two parties receiving the most votes in the three preceding elections for  
51 governor, for United States Senate, and for President of the United States. This index shall be  
52 defined as the total votes received by each party in the three preceding elections for governor,  
53 for United States Senate, and for President of the United States, divided by the total votes cast  
54 for both parties in these elections. Using this index, the nonpartisan state demographer shall  
55 calculate the total number of wasted votes for each party, summing across all of the districts in  
56 the plan. "Wasted votes" are votes cast for a losing candidate or for a winning candidate in  
57 excess of the fifty percent threshold needed for victory. In any plan of apportionment and map  
58 of the proposed districts submitted to the respective apportionment commission, the nonpartisan  
59 state demographer shall ensure the difference between the two parties' total wasted votes, divided  
60 by the total votes cast for the two parties, is as close to zero as practicable.

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

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

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

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

83           (2) Within sixty days after the population of this state is reported to the President for  
84 each decennial census of the United States or, in the event that a reapportionment has been  
85 invalidated by a court of competent jurisdiction, within sixty days that such a ruling has been  
86 made, the congressional district committee of each of the two parties casting the highest vote for  
87 governor at the last preceding election shall meet and the members of the committee shall  
88 nominate, by a majority vote of the members of the committee present, provided that a majority  
89 of the elected members is present, two members of their party, residents in that district, as  
90 nominees for reapportionment commissioners. Neither party shall select more than one nominee  
91 from any one state legislative district. The congressional committees shall each submit to the  
92 governor their list of elected nominees. Within thirty days the governor shall appoint a  
93 commission consisting of one name from each list to reapportion the state into one hundred and  
94 sixty-three representative districts and to establish the numbers and boundaries of said districts.

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

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

101           For the purposes of this Article, the term congressional district committee or  
102 congressional district refers to the congressional district committee or the congressional district  
103 from which a congressman was last elected, or, in the event members of congress from this state  
104 have been elected at large, the term congressional district committee refers to those persons who  
105 last served as the congressional district committee for those districts from which congressmen  
106 were last elected, and the term congressional district refers to those districts from which  
107 congressmen were last elected. Any action pursuant to this section by the congressional district  
108 committee shall take place only at duly called meetings, shall be recorded in their official  
109 minutes and only members present in person shall be permitted to vote.

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

117           The commissioners so selected shall, within ten days of receiving the tentative plan of  
118 apportionment and map of the proposed districts, meet in the capitol building and proceed to

119 organize by electing from their number a chairman, vice chairman and secretary. The  
120 commission shall adopt an agenda establishing at least three hearing dates on which hearings  
121 open to the public shall be held to hear objections or testimony from interested persons. A copy  
122 of the agenda shall be filed with the clerk of the house of representatives within twenty-four  
123 hours after its adoption. Executive meetings may be scheduled and held as often as the  
124 commission deems advisable.

125 The commission may make changes to the tentative plan of apportionment and map of  
126 the proposed districts received from the nonpartisan state demographer provided that such  
127 changes are consistent with this section and approved by a vote of at least seven-tenths of the  
128 commissioners. If no changes are made or approved as provided for in this subsection, the  
129 tentative plan of apportionment and map of proposed districts shall become final. Not later than  
130 two months of receiving the tentative plan of apportionment and map of the proposed districts,  
131 the commission shall file with the secretary of state a final statement of the numbers and the  
132 boundaries of the districts together with a map of the districts.

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

137 No reapportionment shall be subject to the referendum.

Section 5. The senate shall consist of ~~[thirty-four]~~ **forty** members elected by the qualified  
2 voters of the senatorial districts for a term of four years. Senatorial districts shall be apportioned  
3 as provided for in Article III, Section 7.

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

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

15 districts and to establish the numbers and boundaries of said districts. **The number of senators**  
16 **shall total not more than one-third the membership of the house of representatives. Each**  
17 **senatorial district shall contain three representative districts.**

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

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

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

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

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

50 No reapportionment shall be subject to the referendum.

Section 8. No one shall be elected to serve more than eight years total in any one house  
2 of the General Assembly nor more than sixteen years total in both houses of the General  
3 Assembly. In applying this section, service in the General Assembly resulting from an election  
4 prior to December 3, 1992, or service of less than one year, in the case of a member of the house  
5 of representatives, or two years, in the case of a member of the senate, by a person elected after  
6 the effective date of this section to complete the term of another person, shall not be counted.  
7 **Beginning on December 3, 2020, no person shall be elected to serve more than sixteen years**  
8 **total in the general assembly. In applying this subsection, service of less than one year, in**  
9 **the case of a member of the house of representatives, or two years, in the case of a member**  
10 **of the senate, by a person elected after the effective date of this section to complete the term**  
11 **of another person shall not be counted. Any service in the general assembly resulting from**  
12 **an election occurring prior to December 3, 2020, shall count towards the limitations**  
13 **provided in this subsection.**

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