POPULAR NAME:

The Arkansas Citizens' Redistricting Commission Amendment

BALLOT TITLE:

An amendment to the Constitution repealing and amending Sections 1, 4, and 5 of Article 8 of the Constitution to create a Citizens' Redistricting Commission, consisting of nine Commissioners who are registered voters in Arkansas, that will replace the Board of Apportionment, consisting of the Governor, Secretary of State, and Attorney General for the redistricting and apportionment of legislative districts, and the General Assembly for the redistricting and apportionment of congressional districts; providing the Commission shall apportion and redistrict congressional and legislative districts after the census every ten years; providing Commission meetings be advertised and public; requiring the Secretary of State to publish the Commission's work product and redistricting maps; providing records of communications of the Commissioners, Commission staff, and outside consultants relating to the Commission's duties be public records; requiring persons receiving income or reimbursement to influence Commission action to publicly disclose such fact; providing any registered Arkansas voter may apply for the Commission but disqualifying anyone who, within the immediately preceding five years, has served as an elected or appointed federal, state, county or city official, registered lobbyist or officer of a political party, or has been employed by a registered lobbyist, political party, political campaign or political action committee, or is related by blood or marriage to a disqualified person; providing for an application requiring statement of the applicant's qualifications, residential address, and political party affiliation or lack of party affiliation; requiring the Secretary of State to prepare and advertise the application; providing applicants be selected by a panel appointed by the Arkansas Supreme Court Chief Justice, with consideration of racial, gender, and geographical diversity, of three retired Supreme Court Justices and Court of Appeals Judges, and circuit judges if necessary to fill the panel; requiring the panel by majority decision to place the applicants into pools based on party affiliation and choose thirty applicants from the pool affiliated with the party with the largest representation in the General Assembly, thirty from the pool affiliated with the party with the next-largest representation in the General Assembly, and thirty who are not affiliated with the largest or next-largest party; providing the chosen applicants be publicly disclosed, and that the Governor and the parliamentary leaders of the parties with the largest and next-largest representation in the state House of Representatives and Senate may each eliminate up to two applicants from each pool; providing the panel shall then randomly select three applicants from each pool to serve as Commissioners, and providing for random replacement draws if necessary to ensure at least one Commissioner is selected from each congressional district, and that the panel shall fill any Commission vacancy; requiring Commissioner terms to end when a new Commission is convened and prohibiting Commissioners from holding elected office or serving as a registered lobbyist while a Commissioner and for three years thereafter; requiring the Commission to elect its chair and vice chair from different pools; providing a quorum for any meeting is seven Commissioners, and requiring attendance and voting in person and not by proxy; requiring at least two votes from each pool to approve any final redistricting map and six votes to approve any other Commission act; requiring the Secretary of State to provide the Commission census and election data and a means for public comment and proposal of maps; requiring any congressional district to have a population as equal as practical to the population of the state as reported in the census divided by the number of districts to be established; requiring any map for a state House of Representatives or Senate district to vary by no more than three percent from the population of the state divided by the number of state House of Representatives and state Senate seats, respectively; requiring the Commission to conduct at least one public meeting in each congressional district and to publish three redistricting maps of congressional seats and three redistricting maps of state House and Senate seats, with a written report of the basis for the districts; requiring maps be drawn not to favor or disfavor any political party when viewed on a statewide basis; directing, to the extent practicable, districts be contiguous, not deny or abridge the right to vote on account of race or language, be reasonably compact, and except as required to meet the other criteria, not divide cities or counties, and as feasible after satisfying the preceding criteria, promote competition among political parties; requiring the Commission to certify its final maps, and the respective populations and boundaries, to the Secretary of State, which shall become binding unless, within thirty days, a petition for review is filed in the Supreme Court, in which case the apportionment becomes effective thirty days after the Commission certifies to the Secretary of State any revision pursuant to the Supreme Court's mandate; providing reasonable reimbursement of panelists' and Commissioners' expenses related to their duties and a per diem of up to $200, subject to increase by the General Assembly; requiring the General Assembly to appropriate moneys, in no case less than $750,000, for the Commission's duties, and providing, to the extent the Commission requires moneys prior to such appropriation, the Commission shall receive such moneys from the Constitutional Officers Fund; providing the Supreme Court have original jurisdiction to require by mandamus the Chief Justice, panel, Secretary of State, and Commission to perform their duties; providing references to the Board of Apportionment in the Constitution shall refer to the Citizens' Redistricting Commission; and repealing Arkansas Code §§ 7-2-101 through 105.

Defendant's Exhibit 7

THE ARKANSAS CITIZENS' REDISTRICTING COMMISSION AMENDMENT

(1) Article 8, Section 1 of the Constitution of Arkansas is repealed and amended to state as follows:

Citizens' Redistricting Commission created – Membership.

SECTION 1. Purpose.
A Commission of nine Commissioners to be regularly appointed in accordance with the provisions hereof and known as "The Citizens' Redistricting Commission" is hereby created. It shall be the Commission's imperative duty to apportion and redistrict districts for representatives in the United States House of Representatives, the state House of Representatives and the state Senate.

SECTION 2. Transparency.
The Commission shall protect the public trust and discharge its imperative duty through a transparent process. All meetings, whether formal or informal, special or regular, of the Commission shall be advertised and open to the public. The Secretary of State shall maintain and electronically publish as soon as practicable all Commission work product, and alternate and final maps. All records of communications of the Commissioners, and Commission staff and outside consultants, that relate to the Commission's imperative duty shall be deemed public records. Any person who receives income or reimbursement to directly or indirectly communicate with a Commissioner to influence Commission action shall publicly disclose such fact prior to taking such action.

SECTION 3. Eligibility requirements.

Each Commissioner shall be an Arkansas registered voter. No person may serve or continue to serve as a Commissioner if within the preceding five years the person:

1. has served as an elected federal, state, city, or county official;
2. has served as an appointed federal or state official;
3. has served as a registered lobbyist;
4. has served as an officer of a political party;
5. has served as an employee of a registered lobbyist, political party, political campaign committee, or political action committee; or
6. was, by blood or marriage, the spouse, child, parent, or sibling, of any of the foregoing.

SECTION 4. Application Process.
A. No later than January 1, 2021 and December 1 of the subsequent years concurrent with the federal census, the Chief Justice of the Arkansas Supreme Court shall designate a panel of three, and fill any vacancies thereof, to screen applicants for appointment to the Commission. In making appointments to the panel, the Chief Justice shall consider geographic, racial, and gender diversity. The panelists shall be appointed from among retired Justices of the Supreme Court and retired Judges of the Court of Appeals, and if necessary to appoint three panelists, retired Judges of the Circuit Courts, who are able and willing to serve.

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B. The Secretary of State shall advertise statewide the opportunity to serve on the Commission and develop an application form consistent with the provisions hereof no later than January 15 of the year immediately following the federal census. The application form shall require the applicant to state under penalty of perjury (i) that the applicant is eligible to serve as a Commissioner, and (ii) the applicant's residential address, political party affiliation or lack of political party affiliation, age, gender, and race or ethnicity.

C. Eligible persons may apply to serve as a Commissioner no later than March 1 of each year immediately following the federal census. No later than April 1 immediately following the federal census, the panel shall by majority decision select thirty eligible applicants from each of the following three pools: one pool of applicants affiliated with the political party having the largest number of representatives in the General Assembly, one pool of applicants affiliated with the political party having the second-largest number of representatives in the General Assembly, and one pool of applicants affiliated with other political parties or no political party. In selecting applicants for the pools, the panel shall make a good faith effort to ensure that the pools are, insofar as possible, geographically and demographically representative of the population of the state. The panel shall publish the name and application of each selected applicant. Within ten days thereafter, the below shall each, in the following descending order, have the right to eliminate no more than two applicants from each pool of applicants:

1. the Governor;

2. the parliamentary leader of the political party having the largest number of representatives in the state House of Representatives;

3. the parliamentary leader of the political party having the second-largest number of representatives in the state House of Representatives;

4. the parliamentary leader of the political party having the largest number of representatives in the state Senate; and

5. the parliamentary leader of the political party having the second-largest number of representatives in the state Senate.

D. The panel shall randomly draw three applicants from those remaining in each pool, for a total of nine. If the draw results in there being any congressional district in which no drawn applicant resides, then the panel shall conduct and repeat the following replacement draws as necessary to result in three Commissioners being selected from each of the three pools, with at least one Commissioner residing in each congressional district:

1. The panel shall remove from consideration a randomly selected applicant from the congressional district (or districts) having the greatest number of drawn applicants.

2. The panel shall randomly draw from the same pool as the removed applicant a replacement applicant residing in an unrepresented congressional district.

Notwithstanding the foregoing, the panel shall not conduct, or shall cease conducting, replacement draws if there are not enough applicants from the unrepresented congressional district(s) to ensure the selection of at least one Commissioner from each congressional district.

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E. The panel shall randomly select the Commissioners no later than May 1. The panel shall fill any vacancy on the Commission by majority decision from the applicants remaining in the pool with the vacancy, maintaining, to the extent possible, representatives from each congressional district, and shall reconvene as necessary until the next federal census.

SECTION 5. Office and tenure.
Each Commissioner shall take office upon taking the regular oath of office provided in the Constitution. Each Commissioner shall serve until a new Commission is convened following the next federal census. During the tenure of office and for three years thereafter, no Commissioner may hold elected or appointed office in the legislative or executive branch or register as a lobbyist.

SECTION 6. Officers.
At the first meeting of the Commission following each federal census, the Commission shall elect one Commissioner to serve as Chair and another to serve as Vice-Chair. The Chair and Vice-Chair shall not have been selected from the same applicant pool.

SECTION 7. Meetings and Actions of the Commission.

A. Seven Commissioners, including at least the Chair or Vice-Chair, constitute a quorum at any meeting of the Commission. Commissioners must attend and vote in person, and not by proxy. Meetings shall be scheduled by the Chair or Vice-Chair as needed for the discharge of the Commission's duties.

B. Actions of the Commission require approval as follows:

1. Approval of a final district map requires six or more affirmative votes of the Commissioners, including at least two affirmative votes from Commissioners selected from each of the three pools.

2. All other actions of the Commission require six or more affirmative votes of the Commissioners.

(2) Article 8, Section 4 of the Constitution of Arkansas is repealed and amended to state as follows:

<u>Duties of Commission</u>.

SECTION 1. Information.

The Secretary of State shall as soon as practicable provide to the Commission census and election data required to discharge its duties. All information provided by the Secretary of State shall be fair, impartial, and complete. The Secretary of State shall also establish multiple methods for the public to provide comments and propose alternate maps for consideration by the Commissioners.

SECTION 2. Basis of districts.
Each congressional district shall have a total population that is as nearly equal as practicable to the total population of the state reported in the federal census divided by the total number of districts to be established. Each state House of Representatives and state Senate district shall have a total population that does not vary by more than three percent from the total population of the state reported in the federal census divided by the total number of districts to be established for such house.

SECTION 3. District maps.
The Commission shall prepare for public comment three alternate maps for all state districts and three alternate maps for all federal districts based on the number of inhabitants. Districts shall not, when viewed on a statewide basis, unduly favor or disfavor any political party. To the extent

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practicable, the Commission shall establish districts using the criteria set forth in the following order of descending priority:

A. Districts shall be contiguous, bounded by an unbroken line, and consisting of undivided components that connect at more than a single point.

B. Districts shall not deny or abridge the right to vote on account of race or language.

C. Districts shall not divide counties or cities, except to the extent required to satisfy the requirements of Section 2 or subsections (A)-(E) of this Section.

D. Districts shall be reasonably compact.

E. Districts shall promote competition among political parties, where reasonably feasible after satisfaction of the preceding criteria.

SECTION 4. Public hearing and comments.
The Commission shall conduct at least one hearing in each congressional district and shall publicly release the three alternate maps for all state districts and three alternate maps for all federal districts for public comment at least thirty days before the first hearing. In addition, any revised maps shall be publicly released at least thirty days prior to a final vote on adoption. All maps released by the Commission, including any revised maps, shall be accompanied by a written report that explains the Commission's basis for the districts.

SECTION 5. Apportionment.
No later than November 1 immediately following each federal census, the Commission shall reapportion, report, and certify to the Secretary of State the district for each seat in the United States House of Representatives and the General Assembly, setting forth the population, boundaries, and map of each district. The apportionment shall become effective unless a proceeding for review is filed with the Supreme Court within thirty days of certification, in which case the apportionment shall become effective thirty days after the Commission reports and certifies to the Secretary of State any revision necessary to comply with the mandate of the Supreme Court.

SECTION 6. Fiscal Matters.
Panelists and Commissioners are eligible for reimbursement of expenses reasonably related to the discharge of their imperative duties and a per diem of up to $200, which amount may be increased by the General Assembly upon an affirmative majority vote. The Commission shall be entitled to funding in amounts sufficient to discharge its imperative duties. The General Assembly shall appropriate moneys for (i) the fiscal year in which the federal census is performed and (ii) the fiscal year immediately following the federal census, in such amounts as are necessary for the Commission to accomplish its tasks, but in no event shall such appropriations for each Commission's tenure total less than $750,000. To the extent the Commission requires moneys to discharge its imperative duties prior to the convening of the legislative session in which the General Assembly can next appropriate moneys, the Commission shall be entitled to and shall receive moneys from the Constitutional Officers Fund or its successor fund in such amounts necessary to discharge its imperative duties until the General Assembly duly appropriates moneys to the Commission.

(3) Article 8, Section 5 of the Constitution of Arkansas is repealed and amended to read as follows:

Mandamus to compel the Commission to act.

The Supreme Court shall have original jurisdiction to compel the Chief Justice, the panel, the Secretary of State, and Commission by mandamus to perform their respective duties on the application of any citizen and taxpayer.

(4) Each and every reference to "The Board of Apportionment" in the Constitution of Arkansas is repealed and replaced with "The Citizens Redistricting Commission."

(5) Arkansas Code Annotated sections 7-2-101 through 105 are repealed.

(6) The provisions of this Amendment are severable, and if any part or provision hereof is held invalid by a final decision of a court of competent jurisdiction, the invalidity shall not affect any other part or provision of this Amendment.