

IN THE SUPREME COURT OF MISSOURI

No. SC101412

MERRIE SUZANNE LUTHER, *et al.*,
Appellants,

v.

SECRETARY OF STATE DENNY HOSKINS, *et al.*,
Respondents.

Appeal from the Circuit Court of Cole County
The Honorable Christopher K. Limbaugh

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TABLE OF CONTENTS

TABLE OF AUTHORITIES	4
INTRODUCTION	7
JURISDICTIONAL STATEMENT	9
STATEMENT OF FACTS	10
POINTS RELIED ON	12
I. The Circuit Court Erred In Holding The General Assembly Had Plenary Authority To Enact House Bill 1 Because Article III, Section 45 Limits Congressional Redistricting to the Time When Census Results Are Certified to the Governor, in that No Census Had Been Certified Since August 12, 2021 and the General Assembly Already Redistricted in 2022 Based on the 2020 Census, Yet Enacted House Bill 1 in 2025	12
ARGUMENT	13
I. The Circuit Court Erred In Holding The General Assembly Had Plenary Authority To Enact House Bill 1 Because Article III, Section 45 Limits Congressional Redistricting to the Time When Census Results Are Certified to the Governor, in that No Census Had Been Certified Since August 12, 2021 and the General Assembly Already Redistricted in 2022 Based on the 2020 Census, Yet Enacted House Bill 1 in 2025	13
A. The plain language of Article III, Section 45 authorizes the General Assembly to draw new congressional districts only when there has been a census certified to the governor.....	14
B. The General Assembly has no authority to conduct mid-decade redistricting because the Constitution denies such power by clear implication	16
C. The framers of the Constitution <i>could have</i> authorized congressional redistricting at any time but chose not to	19

D.	Applying the <i>expressio unius</i> canon leads to the conclusion that the General Assembly can redistrict only after a census is certified to the governor.....	21
E.	This Court’s precedent supports the conclusion that Article III, Section 45 limits when redistricting may occur.....	22
F.	Other states limit redistricting to once every ten years.....	23
G.	There are important policy reasons why Section 45 limits the General Assembly’s redistricting authority to when a census has been certified to the governor	27
CONCLUSION		29
CERTIFICATE OF SERVICE AND COMPLIANCE.....		31

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Brown v. Carnahan</i> , 370 S.W.3d 637 (Mo. banc 2012).....	13
<i>State ex rel. Buchanan Cnty. v. Imel</i> , 146 S.W. 783 (Mo. banc 1912);.....	22
<i>C.S. v. Mo. State Highway Patrol Justice Info. Serv.</i> , 716 S.W.3d 264 (Mo. banc 2025).....	13, 14
<i>People ex rel. Carter v. Rice</i> , 31 N.E. 921 (N.Y. 1892)	26
<i>In re Certification of a Question of Law from U.S. Dist. Court, Dist. of South Dakota, Western Div.</i> , 615 N.W.2d 590 (S.D., 2000).....	8, 25
<i>Citizens' Nat'l Bank of Kansas City v. Graham</i> , 48 S.W. 910 (Mo. banc 1898).....	22
<i>City of Normandy v. Kehoe</i> , 709 S.W.3d 327 (Mo. banc 2025)	16
<i>Comprehensive Health of Planned Parenthood Great Plains v. State</i> , 2025 WL 2346611 (Mo. banc Aug. 12, 2025)	9
<i>Conservation Comm'n v. Bailey</i> , 669 S.W.3d 61 (Mo. banc 2023)	17
<i>Faatz v. Ashcroft</i> , 685 S.W.3d 388 (Mo. banc 2024).....	15
<i>Frye v. Levy</i> , 440 S.W.3d 405 (Mo. banc 2014)	19
<i>Groh v. Ballard</i> , 965 S.W.2d 872 (Mo. App. 1998).....	21
<i>Harris v. Missouri Ethics Comm'n</i> , 2025 WL 2906971	21

<i>Harris v. Shanahan</i> , 387 P.2d 771 (Kan. 1963).....	26
<i>Henderson v. Koenig</i> , 68 S.W. 72 (Mo. banc 1902).....	22
<i>Jones v. Freeman</i> , 146 P.2d 564 (Okla. 1943)	26
<i>Lamson v. Sec’y of Commonwealth</i> , 168 N.E.2d 480 (Mass. 1960)	26
<i>Legislature v. Deukmejian</i> , 669 P.2d 17 (Cal., 1983).....	27
<i>Opinion of the Justices</i> , 47 So.2d 714 (Ala. 1950)	26
<i>People ex rel. Mooney v. Hutchinson</i> , 50 N.E. 599 (Ill. 1898).....	26
<i>State ex rel. Nothum v. Walsh</i> , 380 S.W.3d 557 (Mo. banc 2012).....	19
<i>Pearson v. Koster</i> , 359 S.W.3d 35 (Mo. banc 2012).....	7, 22
<i>Pestka v. State</i> , 493 S.W. 3d 405 (Mo. banc 2016)	16, 17
<i>Preisler v. Doherty</i> , 284 S.W.2d 427 (Mo. banc 1955).....	7, 20, 28
<i>Rebman v. Parson</i> , 576 S.W.3d 605 (Mo. banc 2019).....	18
<i>Robust Mo. Dispensary 3, LLC v. St. Louis Cnty.</i> , 2025 WL 2053566 (Mo. banc 2025).....	21
<i>S. Metro Fire Prot. Dist. V. City of Lee’s Summit</i> , 278 S.W.3d 659 (Mo. banc 2009)	19
<i>People ex rel. Salazar v. Davidson</i> , 79 P.3d 1221 (Colo. 2003)	<i>passim</i>
<i>State v. Hamey</i> , 65 S.W.946 (Mo. 1901).....	22

<i>State v. Shelby</i> , 64 S.W.2d 269 (Mo. banc 1933).....	16
<i>Timmons v. Twin Cities Area New Party</i> , 520 U.S. 351 (1997).....	29
<i>State ex rel. Upchurch v. Blunt</i> , 810 S.W.2d 515 (Mo. banc 1991)	20
<i>People ex rel. Wood v. Draper</i> , 15 N.Y. 532 (N.Y. Ct. App. 1857)	22
<i>Woody v. Clark</i> , 2025 WL 2907002 (Mo. App. Oct. 14, 2025)	19
Statutes	
13 U.S.C. § 141	16
Other Authorities	
25 Am.Jur.2d Elections §§ 7–9 (1999)	26
Cal. Const. art. XXI, § 6 (1980)	26
Colo. Const. art. V, § 44 (1974).....	24
Mo. Const. art. I, § 2	28
Mo. Const. art. III, § 10	19
Mo. Const. art. III, § 45	<i>passim</i>
Mo. Const. art. III, § 49	29
Mo. Const. art. V, § 3	9
S.D. Const. Art. III, § 5	25
<i>Webster’s New College Dictionary</i> (1999)	15

INTRODUCTION

This case concerns the scope of the General Assembly's authority to draw new congressional districts. That authority is governed by Article III, § 45 of the Missouri Constitution, which plainly and unambiguously specifies when the General Assembly can draw new maps – that is, when the census is certified to the governor, *not* whenever the General Assembly may please. This is in stark contrast to Article III, § 10, which contains language indicating that new *state* legislative districts can be prepared more frequently. It has always been the understanding and practice in Missouri that the General Assembly is limited to drawing new congressional districts *once* in response to each decennial census.

That understanding is reflected in this Court's opinions. As this Court has explained, once congressional districts have been drawn in response to the decennial census, they "remain in place for the next decade or until a census shows that the district should change." *Pearson v. Koster*, 359 S.W.3d 35 (Mo. banc 2012). Indeed, the language of Article III, § 10 notwithstanding, this Court has held as to *state* districts that "only one valid apportionment is intended for each decennial period." *Preisler v. Doherty*, 284 S.W.3d 427, 473 (Mo. banc 1955). This Court's prior pronouncements concerning the scope of the General Assembly's redistricting authority were correct, and are fully consistent with the language and structure of the Missouri Constitution and cases from other jurisdictions addressing similar constitutional provisions. Indeed, "[i]t is the general rule that once a valid apportionment law is enacted no future act may be

passed by the legislature until after the next regular apportionment period prescribed by the Constitution.” *In re Certification of a Question of Law from U.S. Dist. Court, Dist. of South Dakota, Western Div.*, 615 N.W.2d 590, 593 (S.D., 2000) (citing cases from multiple jurisdictions); *see also* A36-A45.

In short, there can be little doubt the General Assembly may redistrict only once in response to each decennial census. It did so in 2022. There has not been another census yet. Nonetheless, in September 2025 the General Assembly purported to draw new congressional districts not in response to a certified census, but rather in response to entreaties from the President of the United States. The resulting statutes exceeded the General Assembly’s authority, and this Court should declare them a nullity.

JURISDICTIONAL STATEMENT

This appeal presents the issue of whether the congressional districts contained in House Bill 1¹ (“HB 1”) (Sections 128.345, 128.346, 128.348, 128.471, 128.472, 128.473, 128.474, 128.475, 128.476, 128.477, 128.478, and 128.479) are unconstitutional because the Missouri Constitution limits the General Assembly’s authority to enact congressional districts to when a census is certified to the governor. Mo. Const. art. III, § 45. Because this appeal involves the validity of several “statutes of this state,” exclusive appellate jurisdiction lies with this Court. Mo. Const. art. V, § 3.

Appellants raised their constitutional claim in their Petition, preserved it in the circuit court (as discussed herein) and properly presents that claim in this appeal. *Comprehensive Health of Planned Parenthood Great Plains v. State*, 2025 WL 2346611, at *2 (Mo. banc Aug. 12, 2025).

¹ House Bill 1, 103rd General Assembly, Second Extraordinary Session (2025).

STATEMENT OF FACTS

The United States Census Bureau conducts a census once every ten years “to determine the relevant population for federal apportionment.” D4:P2, ¶ 13. The most recent decennial census was conducted in 2020. D4:P2-3 ¶ 14; *see also id.* ¶ 18 (The “United States Census Bureau has not conducted a census since the 2020 census.”). The United States Census Bureau certified the 2020 census data to the Governor of Missouri on August 12, 2021. D4:P3 ¶ 15. “No census has been certified to the Governor of Missouri since the certification of the 2020 census occurred on August 12, 2021.” D4:P3, ¶ 19.

After the 2020 census was certified to the Governor, the General Assembly completed its obligation to draw congressional districts. D4:P3, ¶ 16. Those districts were enacted by House Bill 2909 (2022). D4:P3, ¶ 16; D6.

Despite no new census having been conducted or certified to the Governor, the General Assembly recently purported to redraw Missouri’s congressional districts during an extraordinary session. On September 12, 2025, during its Second Extraordinary Session, the Missouri General Assembly truly agreed and finally passed HB 1, titled: “To repeal sections 128.345, 128.346, and 128.348, RSMo, and to enact in lieu thereof twelve new sections relating to the composition of congressional districts.” D4:P2, ¶ 10; D5. On September 28, 2025, Governor Kehoe signed HB 1. D4:P2, ¶ 12.

The same day HB 1 was truly agreed and finally passed, Appellants filed their lawsuit asking the court to declare House Bill 1 unconstitutional in violation

of Article III, Section 45 of the Missouri Constitution and to enjoin the Secretary of State and anyone acting in concert with him from using the districts found in HB 1 to conduct any congressional election. *See* D2; D4:P2, ¶ 10.

The circuit court tried the matter on stipulated facts and exhibits. D4; D5; D6. No witnesses were called, and no additional evidence was submitted by any party. *See generally* Tr. The circuit court issued its judgment against Appellants, declaring the legislature had “plenary authority to enact House Bill 1, the second redistricting legislation.” D15:P6; A1. This timely appeal followed.

POINTS RELIED ON

I. The Circuit Court Erred In Holding The General Assembly Had Plenary Authority To Enact House Bill 1 Because Article III, Section 45 Limits Congressional Redistricting to the Time When Census Results Are Certified to the Governor, in that No Census Had Been Certified Since August 12, 2021 and the General Assembly Already Redistricted in 2022 Based on the 2020 Census, Yet Enacted House Bill 1 in 2025

- Mo. Const. art. III, § 45
- *Pearson v. Koster*, 359 S.W.3d 35 (Mo. banc 2012)
- *Preisler v. Doherty*, 284 S.W.2d 427 (Mo. banc 1955)

ARGUMENT

I. The Circuit Court Erred In Holding The General Assembly Had Plenary Authority To Enact House Bill 1 Because Article III, Section 45 Limits Congressional Redistricting to the Time When Census Results Are Certified to the Governor, in that No Census Had Been Certified Since August 12, 2021 and the General Assembly Already Redistricted in 2022 Based on the 2020 Census, Yet Enacted House Bill 1 in 2025

Appellants preserved this claim. Their challenge to House Bill 1 was included in their Petition. D2. They maintained that claim and urged the circuit court to adopt their interpretation of Article III, Section 45 in their trial brief and at trial. D11; Tr. 12-22.

This matter was tried on stipulated facts. *See* D4. Where there is no factual dispute, and the issue turns simply on an interpretation of the law, the Court reviews the circuit court's judgment *de novo*. *Brown v. Carnahan*, 370 S.W.3d 637, 653 (Mo. banc 2012). This Court also conducts a *de novo* review because Appellants' sole claim is a challenge to the constitutionality of House Bill 1. *C.S. v. Mo. State Highway Patrol Justice Info. Serv.*, 716 S.W.3d 264, 266 (Mo. banc 2025).

The plain language of the Missouri Constitution is where the analysis here should start and end. If that is not sufficient, canons of construction, persuasive authority from other states, and various policy reasons all lead to one conclusion:

the General Assembly is required to redistrict when a census is certified to the governor, and can do so at no other time.

- A. The plain language of Article III, Section 45 authorizes the General Assembly to draw new congressional districts only when there has been a census certified to the governor

The question before this Court is one of straightforward constitutional interpretation. Article III, Section 45 of the Missouri Constitution governs congressional redistricting. It says:

When the number of representatives to which the state is entitled in the House of the Congress of the United States under the census of 1950 and each census thereafter is certified to the governor, the general assembly shall by law divide the state into districts corresponding with the number of representatives to which it is entitled, which districts shall be composed of contiguous territory as compact and as nearly equal in population as may be.

Mo. Const. art. III, § 45; A8.

The primary goal in interpreting Article III, Section 45 is “to ascribe to the words of [the] provision the meaning that the people understood them to have when the provision was adopted.” *C.S.*, 716 S.W.3d at 267 (cleaned up). “Every word contained in [Article III, Section 45] has effect, meaning, and is not mere surplusage.” *Id.* (cleaned up). The “meaning conveyed to the voters comes from the ordinary and usual meaning of the words used.” *Id.* (cleaned up). Absent a definition, “the ordinary meaning of the words is derived from the dictionary.” *Id.*

(cleaned up). Article III, Section 45 “should be considered a whole, with the primary objectives of the provision in issue in mind.” *Id.* (cleaned up).

The word “when” limits the scope of authority granted by Section 45. “When” means “[a]t what time,” “[a]t which time,” “[a]t the time that,” or “[a]s soon as.” *Webster’s New College Dictionary* at 1257 (1999). The plain, ordinary, and natural meaning of the word “when” in Section 45 means that redistricting occurs at the time the census is certified to the governor and at no other time. *See Faatz v. Ashcroft*, 685 S.W.3d 388, 401 (Mo. banc 2024) (cleaned up) (“Words used in constitutional provisions are interpreted to give effect to their plain, ordinary, and natural meaning.”).

Breaking Section 45 down into its component parts supports this conclusion. In the first clause of Section 45, the General Assembly is directed *when* to draw new districts. It requires the General Assembly to draw congressional districts *when* the census is certified to the governor. Mo. Const. art. III, § 45; A8. Once the General Assembly has done so, it is instructed to redistrict again *when* “each census thereafter is certified to the Governor.” *Id.* Nothing in Section 45 directs the General Assembly to redistrict outside the prescribed time, or implies that the General Assembly may do so. The second clause of Section 45 discusses the criteria for drawing congressional districts (those are not at issue in this litigation).

Here, the General Assembly drew congressional districts in 2022 *when* the 2020 census was certified to the Governor. D4:P3, ¶ 16. There has been no census

certified since. D4:P3, ¶ 19. Article III, Section 45 limits congressional redistricting to once every ten years because the federal government only conducts a census once every ten years.²

B. The General Assembly has no authority to conduct mid-decade redistricting because the Constitution denies such power by clear implication

The Missouri Constitution “is not a grant of power, but rather a limitation on the power of the Legislature.” *State v. Shelby*, 64 S.W.2d 269, 271 (Mo. banc 1933). Restrictions on the General Assembly’s lawmaking power “must be expressed in the Constitution or clearly implied by its provisions.” *Id.* This Court has ruled in a long line of cases that the General Assembly’s “plenary authority” is impliedly limited in various circumstances.

For example, in *Pestka v. State*, two plaintiffs challenged the General Assembly’s late veto override of legislation relating to worker’s compensation insurance. 493 S.W. 3d 405 (Mo. banc 2016). This Court reviewed the structure

² See 13 U.S.C. § 141. If the U.S. Congress changes the law to authorize census taking more frequently than once every ten years, then the Missouri General Assembly would be obligated (and authorized) to conduct redistricting more often. But because the law presently requires only “a decennial census of population,” the General Assembly only draws new congressional maps once every ten years.

It would also be the case, that, if a court of competent jurisdiction deemed a congressional map unconstitutional (for whatever reason), the General Assembly would draw a new map, regardless of whether a new census had been conducted. It is as if that unlawful map never existed. See *City of Normandy v. Kehoe*, 709 S.W.3d 327, 334 (Mo. banc 2025).

and history of the constitutional provision governing veto overrides and concluded that when it gave the legislature authority to override late vetoes during veto session, it necessarily excluded the authority to override other vetoes (made earlier in the legislative session). *Id.* at 407 (“This Court holds the senate lacked authority to vote to override the governor’s veto during the September 2015 veto session because only bills returned by the governor on or after the fifth day before the end of the regular legislative session can be taken up during a September veto session.”). Although there is no language *expressly* prohibiting all veto overrides during veto session, the *clear implication* is that only overrides of late vetoes are authorized.

This Court engaged in a similar analysis in *Conservation Commission v. Bailey*, 669 S.W.3d 61, 66 (Mo. banc 2023). The question there was whether “the Missouri Constitution permits the General Assembly to limit the Conservation Commission’s authority to expend and use conservation funds for the constitutionally enumerated purposes.” 669 S.W.3d at 66. This Court reviewed the constitutional provisions governing the Conservation Commission and determined that those provisions “do not . . . leave any room for the General Assembly to interfere with the Conservation Commission’s performance of its constitutional purposes.” *Id.* at 68. It is, thus, clearly implied that the General Assembly’s power is limited as to Conservation Commission funds. As in *Pestka*, no language in the Constitution *expressly* prohibited the General Assembly from using its appropriation authority to limit the Conservation Commission’s use of

its funds. But the clear implication from the Constitution is that the General Assembly has been denied that authority.

The General Assembly similarly claimed its plenary authority was unrestricted in *Rebman v. Parson*, 576 S.W.3d 605 (Mo. banc 2019). There, the General Assembly used its appropriation authority to defund a specific Administrative Law Judge. *Id.* This Court concluded “the General Assembly may not compel an executive department, directly or indirectly, to fire a specific employee.” *Id.* at 610. There is nothing explicit in the Constitution limiting the General Assembly’s appropriation authority in this way; rather, it is clearly implied that the General Assembly’s plenary authority does not extend “to say who shall not be compensated out of an appropriation.” *Id.* “Isolating a single executive branch employee in this way exceeded the general assembly’s plenary authority to appropriate funds because it effectively precluded the director of the department from selecting which ALJ to dismiss, which is the director’s constitutional prerogative.” *Id.* at 611.

So it is here. While the General Assembly may generally have plenary authority to legislate, Article III, Section 45 limits legislative power to draw congressional maps. The clear implication of the language in Section 45 is that the General Assembly is required to redistrict when a census has been certified to the governor and can do so at no other time. The word “when” and the first clause of Article III, Section 45 imposes this limitation.

C. The framers of the Constitution *could have* authorized congressional redistricting at any time but chose not to

The Constitution also contains provisions that address state-level redistricting. It is proper to consider provisions *in pari materia* with Section 45 to understand its meaning. *S. Metro Fire Prot. Dist. V. City of Lee's Summit*, 278 S.W.3d 659, 666 (Mo. banc 2009). Relevant here is Article III, Section 10:

The last decennial census of the United States shall be used in apportioning representatives and determining the population of senatorial and representative districts. *Such districts may be altered from time to time as public convenience may require.*

Mo. Const. art. III, § 10 (emphasis added).

This related provision includes language expressly allowing further redistricting “as public convenience may require.” Said another way, state-level redistricting may occur more often than the decennial census. The drafters of the Constitution could have included a similar phrase in Article III, Section 45, but chose not to. *See Frye v. Levy*, 440 S.W.3d 405, 424 (Mo. banc 2014). Indeed, Sections 10 and 45 were adopted contemporaneously in 1945 – one contained authorization for more frequent redistricting, the other did not. This explicit allowance for more regular redistricting should not be read into Section 45. *State ex rel. Nothum v. Walsh*, 380 S.W.3d 557, 566 (Mo. banc 2012) (“[T]he Court has no authority to read into [the constitution intent] contrary to the intent made evident by the plain language.”); *see also Woody v. Clark*, 2025 WL 2907002, at

*4 (Mo. App. Oct. 14, 2025) (“We presume that the legislature acts with knowledge of statutes involving similar or related subject matters and that it acts intentionally when it includes language in one section but omits such language from another.” (cleaned up)).

But even that express language did not convince this Court that redistricting could occur without new census data. Instead, in *Preisler v. Doherty*, this Court made clear that “only one valid apportionment is intended for each decennial period.” 284 S.W.2d 427, 473 (Mo. banc 1955). That is the case because “the decennial census is made the basis of reapportionment.” *Id.* Thus, this Court concluded that even state-level redistricting cannot occur except immediately following the certification of the census to the governor, *despite* language that might be read to suggest it is permissible. *Preisler* has never been overruled and the Court should follow its sound logic now.

If one is to read similar constitutional provisions in harmony (as the Court does), the most appropriate way to read Sections 10 and 45 is that redistricting (in whatever form) is authorized only in conjunction with the certification of the census. *See State ex rel. Upchurch v. Blunt*, 810 S.W.2d 515, 516 (Mo. banc 1991) (“This Court is required to give due regard to the primary objectives of the constitutional provision under scrutiny, as viewed in harmony with all related provisions.”). It would be illogical to read Section 45 to authorize mid-decade redistricting when the Constitution’s framers chose not to include language that

would allow such redistricting, and when this Court has read language arguably granting such authority as to state-level redistricting *not* to authorize it.

D. Applying the *expressio unius* canon leads to the conclusion that the General Assembly can redistrict only after a census is certified to the governor

Rules of statutory construction apply with equal force to interpreting the Constitution. See *Robust Mo. Dispensary 3, LLC v. St. Louis Cnty.*, 2025 WL 2053566 *3 (Mo. banc 2025) (“[T]he rules of statutory interpretation mirror the rules for the interpretation of constitutional provisions[.]”). Particularly relevant here is the *expressio unius* canon. “A standard rule of statutory construction is that the express mention of one thing implies the exclusion of another.” *Groh v. Ballard*, 965 S.W.2d 872, 874 (Mo. App. 1998) (cleaned up). In *Harris v. Missouri Ethics Commission*, the Court of Appeals concluded that because the legislature did not expressly provide an avenue to appeal the dismissal of a complaint by the Missouri Ethics Commission, the “legislature did not intend to allow appeals regarding dismissed complaints.” 2025 WL 2906971, at *4 (No. WD87716) (Mo App. Oct. 14, 2025).

That’s also true here. Since the Constitution delineates *when* redistricting may occur, it follows that redistricting shall *not occur* any other time. As this Court has explained, “[i]f directions are given respecting the times or modes of proceeding in which a power should be exercised, there is at least a strong presumption that the people designed it should be exercised in that time and

mode only” *State v. Hamey*, 65 S.W.946, 948 (Mo. 1901). “Every positive direction contains an implication against anything contrary to it, or which would frustrate or disappoint the purpose of that provision.” *Id.* (quoting *People ex rel. Wood v. Draper*, 15 N.Y. 532, 544 (N.Y. Ct. App. 1857)). The Court has applied this principle when interpreting the Constitution on other occasions. *See Henderson v. Koenig*, 68 S.W. 72, 75 (Mo. banc 1902), *overruled on other grounds by State ex rel. Buchanan Cnty. v. Imel*, 146 S.W. 783 (Mo. banc 1912); *Citizens’ Nat’l Bank of Kansas City v. Graham*, 48 S.W. 910, 911 (Mo. banc 1898).

Here, Section 45 prescribes when redistricting is to happen. That positive direction clearly implies that the legislature may not redistrict at other times.

E. This Court’s precedent supports the conclusion that Article III, Section 45 limits when redistricting may occur

This Court has previously interpreted Article III, Section 45 this way. In *Pearson v Koster*, 359 S.W.3d 35 (Mo. banc 2012), this Court explained that Article III, Section 45 “establishes when the General Assembly must redistrict Missouri for the election of members to the United States House of Representatives[.]” 359 S.W.3d at 37. Specifically, this Court said that Section 45 is “triggered when the results of the . . . United States Census revealed . . . the population[.]” *Id.* At that time, “[i]t is the responsibility of the Missouri General Assembly to draw new congressional election districts.” *Id.* Once the General Assembly (following certification of the census) draws a congressional map, “the

new districts will take effect for the . . . election *and remain in place for the next decade or until a Census shows that the district should change.*” *Id.* (emphasis added). The General Assembly has offered no reason to depart from that understanding, which is consistent with the Constitution’s text.

F. Other states limit redistricting to once every ten years

Missouri is not the only state that has grappled with the question of when congressional redistricting may occur. Most relevant, the Colorado Supreme Court—analyzing constitutional language that is almost identical to the language in Article III, Section 45—acknowledged that it prohibits redistricting more than once during the ten-year census period.

i. *Colorado*

In *People ex rel. Salazar v. Davidson*, 79 P.3d 1221, 1228 (Colo. 2003) (A9-A35), the Supreme Court of Colorado considered the same question at issue here—is the legislature authorized to draw congressional districts when there has not been a census? The court’s answer was a resounding “no.”

The analysis began with the Colorado Constitution, which contained language very similar to Article III, Section 45:

The General Assembly shall divide the state into as many congressional districts as there are representatives in congress apportioned to this state by the congress of the United States for the election of one representative to congress from each district. When a new apportionment shall be made by congress, the general assembly shall

divide the state into congressional districts accordingly.³

Colo. Const. art. V, § 44 (1974).

The Colorado Supreme Court interpreted the second sentence of the foregoing provision as a “temporal restriction on redistricting.” *Davidson*, 79 P.3d at 1238; A9-A35. Looking at the definitions of “when,” the Court reasoned “the word ‘when’ means that redistricting may only occur after a new apportionment.” *Id.* More specifically, “a new apportionment is a ‘condition’ for redistricting; redistricting must take place ‘any and every time’ a new apportionment occurs; and, redistricting must take place ‘just after’ a new apportionment.” *Id.* “Conversely, redistricting may not happen spontaneously or at the inducement of some other unspecified event; it must happen after and only after a new census apportionment.” *Id.*

Reading Article V, Section 44 of the Colorado Constitution any other way would have rendered the second sentence of Section 44 superfluous. “If the second sentence did not place a time constraint upon redistricting, then all that would remain of this sentence would be a directive for the General Assembly to divide the state into single-member districts—exactly what the first sentence in Section 44 already requires.” *Id.* at 1239.

³ This provision was amended in 2018 to remove the legislature’s authority to draw congressional districts and to give that authority to a commission.

And, like Missouri, the Colorado Constitution contained language (before a commission was put in charge of legislative redistricting) governing state-level redistricting that said, “senatorial and representative districts may be altered from time to time, as public convenience may require.” *Id.* That, the Colorado Supreme Court said, demonstrates that “the framers intended to restrict the frequency of congressional redistricting to once per census.” *Id.* That’s because if “the framers had intended to allow the General Assembly to draw the congressional districts at will, without temporal limitation, they would have used the ‘from time to time’ language that they used in Section 47.” *Id.*

ii. *South Dakota*

The South Dakota Supreme Court answered a similar question to the one posed here, except that it related to state-level apportionment (as South Dakota only has one congressional district). The constitutional language, in part, directs the South Dakota legislature that “[a]n apportionment shall be made by the Legislature in 1983 and in 1991, and every ten years after 1991. Such apportionment shall be accomplished by December first of the year in which the apportionment is required.” *In re Certification of a Question of Law from U.S. Dist. Court, Dist. of South Dakota, Western Div.*, 615 N.W.2d 590, 593 (S.D., 2000); A36-A45; see also S.D. Const. Art. III, § 5.

Although Missouri’s language is different, both South Dakota and Missouri impose a temporal limitation on when redistricting may occur. The South Dakota

Supreme Court concluded that the legislature could only redistrict at the specific time provided for in the Constitution. *See id.* at 595. It explained:

Other jurisdictions, examining state constitutions with provisions . . . with no express prohibition of apportionment at a time other than that constitutionally prescribed, have reached the same conclusion. It is the general rule that once a valid apportionment law is enacted no future act may be passed by the legislature until after the next regular apportionment period prescribed by the Constitution.

Id. (citing *Harris v. Shanahan*, 387 P.2d 771, 779–80 (Kan. 1963); *Lamson v.*

Sec’y of Commonwealth, 168 N.E.2d 480, 483 (Mass. 1960); *Opinion of the*

Justices, 47 So.2d 714, 716 (Ala. 1950); *Jones v. Freeman*, 146 P.2d 564, 573

(Okla. 1943); *People ex rel. Mooney v. Hutchinson*, 50 N.E. 599, 601 (Ill. 1898);

People ex rel. Carter v. Rice, 31 N.E. 921, 926 (N.Y. 1892); 25 Am.Jur.2d

Elections §§ 7–9 (1999)).

iii. California

Prior to more recent amendments removing the legislature’s authority to redistrict, the California Constitution provided that “[i]n the year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, the Legislature shall adjust the boundary lines of the . . . Congressional . . . districts in conformance with the following standards[.]”

Cal. Const. art. XXI, § 6 (1980).

Considering the lawfulness of a mid-decade redistricting proposal, the Court rejected it based on the plain language and long history in California of once-per-decade redistricting. The California Constitution prohibits redrawing “legislative and congressional districts during the decade following a federal decennial census at a time when the Legislature has enacted a valid and effective statute or statutes defining those districts.” *Legislature v. Deukmejian*, 669 P.2d 17, 28, 194 (Cal., 1983); A46-A65.

G. There are important policy reasons why Section 45 limits the General Assembly’s redistricting authority to when a census has been certified to the governor

There are fundamental underpinnings of the American system of governance and the Missouri Constitution that support limiting redistricting to once per decade. As the Colorado Supreme Court recognized, “the frequency of redistricting affects the stability of . . . congressional districts, and hence, the effectiveness of . . . representation in the United States Congress.” *Davidson*, 79 P.3d at 1228. “When the boundaries of a district are stable, the district’s representative or any hopeful contenders can build relationships with the constituents in that district.” *Id.* The stability extends to constituent groups as well. “[C]onstituents within a district can form communities of interest with one another, and these groups can lobby the representative regarding their interests.” *Id.* Having created these relationships, they “improve representation and ultimately, the effectiveness of the district’s voice in Congress.” The framers of

Missouri's Constitution likely understood this, as the basic process has been the same throughout our nation's history.

On a more practical level, if mid-decade redistricting were possible in Missouri, it likely would have happened before. Missouri, as this Court well knows, has experienced changes in party governance. It has certainly not been the case that since the 1945 constitution, one party has been consistently in a position of power to control redistricting. As the Colorado Supreme Court explained:

If the General Assembly has always understood the state constitution to allow redistricting more than one per decade, there should be some evidence that it exercised that power. Yet there is none. Even when the party in control changed, there was no new redistricting of congressional seats.

Id. at 1240. The same is true here.

Further, as this Court explained in *Preisler*, “the decennial census is made the basis of reapportionment.” 284 S.W.2d at 473. The sole purpose of Article III, Section 45 is to ensure orderly election of representatives to the United States Congress. Under federal law, such representation is adjusted every 10 years. Section 45 recognizes this, by making certification of the census the trigger for, and limitation on, the General Assembly's power to redistrict.

And, finally, there is inherent value in stability. The Missouri Constitution is intended to promote the “general welfare” of the people, which includes their general happiness. Mo. Const. art. I, § 2. And the state has a recognized interest

in the “stability of [its] political systems.” *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 366 (1997). The Constitution should be read with those interests in mind.

Reading Section 45 to allow redistricting *at any time*, would be chaotic. Districts could be redrawn any time the General Assembly was in regular or extraordinary session. That means districts could be redrawn for every election or even multiple times between elections.⁴ Constant change can breed confusion and chaos. Having a regular cycle at which redistricting occurs creates a natural order to Missouri’s politics and systems upon which the general public can depend. This is good for the citizenry, for whom the maps mean responsiveness to needs and concerns, and fulsome representation in Congress. The language of the Missouri Constitution is intended to promote that stability, not undermine it.

CONCLUSION

This Court should enter the judgment that should have been entered. Rule 84.14. That judgment should reflect the plain language of Article III, Section 45, this Court’s prior decisions, and the overriding policy considerations regarding stability in congressional map drawing.

⁴ Add to this the fact that the people have reserved the right to “reject by referendum any act of the general assembly,” Mo. Const. art. III, § 49, and you could end up with complete chaos during every two-year election cycle. That cannot be what the drafters intended.

Respectfully submitted,

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CERTIFICATE OF SERVICE AND COMPLIANCE

A copy of this document and the appendix were served on counsel of record through the Court's electronic notice system on January 12, 2026.

This brief complies with the limitations contained in Supreme Court Rule 84.06 and Local Rule 41. Relying on the word count of the Microsoft Word program, the undersigned certifies that the total number of words contained in this brief is 5,122 excluding the cover, table of contents, table of authorities, signature block, appendix, and this certificate. The font is Georgia 13-point type. The electronic copies of this brief were scanned for viruses and found to be virus free. Pursuant to Rule 55.03, the undersigned further certifies the original of this brief has been signed by the undersigned.

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