

**IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI**

BARBARA PIPPENS, JOHN BOHNEY, CHERYL  
HIBBELER, REBECCA SHAW, BOB MINOR, JAMES  
HARMON, GENE DAVISON, PAT MCBRIDE,

*Plaintiffs,*

v.

JOHN R. ASHCROFT, in his official capacity as Missouri  
Secretary of State, DAVE SCHATZ, in his official  
capacity as State Senator and President Pro Tem of the  
Senate; ELIJAH HAAHR, in his official capacity as State  
Representative and Speaker of the House, and DANIEL  
HEGEMAN, in his official capacity as State Senator and  
sponsor of Senate Joint Resolution 38,

*Defendants.*

Case No. \_\_\_\_\_

**PETITION FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF UNDER  
SECTION 116.190, RSMO**

The General Assembly recently approved Senate Joint Resolution 38 (“SJR 38”), which proposes a constitutional amendment for placement on the statewide ballot. SJR 38 would eliminate the nonpartisan and fair redistricting process that had been approved by voters only two years ago. Plaintiffs bring this suit because the true impact of SJR 38 would not be apparent to a voter who relies on the summary statement that was drafted, and approved, by the General Assembly to accompany the measure. To the contrary, the General Assembly’s proposed summary statement is insufficient and unfair.

The General Assembly’s proposed summary statement fails to disclose that SJR 38 would eliminate the Nonpartisan State Demographer authorized to draw redistricting maps—the key mechanism voters approved to remedy partisan gerrymandering—in addition to falsely representing that SJR 38 would “create . . . independent” commissions. The unfair and insufficient

summary statement drafted by the General Assembly should be vacated and replaced with a summary statement that fully and accurately informs voters about the effects that SJR 38 will have or sent back to the General Assembly for their revisions.

### **THE PARTIES**

1. Plaintiffs Barbara Pippens, John Bohney, Cheryl Hibbeler, Rebecca Shaw, Bob Minor, James Harmon, Gene Davison, and Pat McBride are each citizens of Missouri.

2. Defendant John R. Ashcroft is the duly elected and acting Secretary of State of Missouri. He is named in his official capacity pursuant to § 116.190.2 RSMo.

3. Defendant Dave Schatz is State Senator for Missouri's 26th Senate District and serves as the current President Pro Tem of the Senate. He is named in his official capacity pursuant to § 116.190.2, RSMo.

4. Defendant Elijah Haahr is State Representative for Missouri's 134th House of Representatives District and serves as the current Speaker of the House. He is named in his official capacity pursuant to § 116.190.2, RSMo.

5. Defendant Daniel Hegeman is State Senator for Missouri's 12th Senate District and sponsored SJR 38. He is named in his official capacity pursuant to § 116.190.2, RSMo.

### **JURISDICTION AND VENUE**

6. Plaintiffs bring this action pursuant to § 116.190.1, RSMo, which vests exclusive venue in the Circuit Court of Cole County.

## **FACTUAL ALLEGATIONS**

### **Missouri Voters Overwhelmingly Enacted Amendment 1 to Increase Integrity, Transparency, and Accountability in Missouri Government.**

7. On May 3, 2018, supporters of an initiative submitted more than 330,000 signatures to the Missouri Secretary of State to put a redistricting reform and government ethics amendment to the Missouri Constitution on the November 6, 2018 ballot. That initiative is attached as Exhibit 1.

8. The Secretary of State prepared and certified a ballot title for that initiative which read as follows:

“Shall the Missouri Constitution be amended to:

- change process and criteria for redrawing state legislative districts during reapportionment;
- change limits on campaign contributions that candidates for state legislature can accept from individuals or entities;
- establish a limit on gifts that state legislators, and their employees, can accept from paid lobbyists;
- prohibit state legislators, and their employees, from serving as paid lobbyists for a period of time;
- prohibit political fundraising by candidates for or members of the state legislature on State property; and
- require legislative records and proceedings to be open to the public?

State governmental entities estimate annual operating costs may increase by \$189,000. Local governmental entities expect no fiscal impact.”

9. The Secretary of State designated the initiative as “Amendment 1.”

10. On November 6, 2018, Amendment 1 was adopted by the voters.

**SJR 38 Would Dismantle Amendment 1 to Dramatically Change Redistricting in Missouri and Preserve Partisan Gerrymandering.**

11. Within weeks of the passage of Amendment 1, Republican lawmakers began working towards placing on the statewide ballot new constitutional amendments that would dismantle the redistricting reforms that had so recently become the law. That effort culminated in the enactment of SJR 38, which was voted out of the Senate on February 10, 2020, and passed the House on May 13, 2020. The texts of SJR 38, as introduced and as truly agreed to and finally passed, are attached as **Exhibit 2** and **Exhibit 3**, respectively.

12. The Committee on Legislative Research, Oversight Division, prepared a fiscal note for SJR 38 on February 4, 2020, which is attached as **Exhibit 4** to this Petition.

**The Summary Statement in SJR 38 Is Insufficient and Unfair.**

13. The summary statement prepared and approved by the General Assembly as part of SJR 38 is:

“Shall the Missouri Constitution be amended to:

- Ban all lobbyists gifts to legislators and their employees;
- Reduce legislative campaign contribution limits; and
- Create citizen-led independent bipartisan commissions to draw state legislative districts based on one person, one vote, minority voter protection, compactness, competitiveness, fairness and other criteria.”

**COUNT 1: CLAUSE THREE OF THE SUMMARY STATEMENT VIOLATES  
§§ 116.155.2 and 116.190, RSMO, BECAUSE IT IS FALSE AND MISLEADING IN  
CLAIMING THAT SJR 38 WOULD CREATE CITIZEN-LED INDEPENDENT  
BIPARTISAN COMMISSIONS**

14. Clause 3 claims that SJR 38 would “[c]reate citizen-led independent bipartisan commissions.” This claim is insufficient and unfair for three primary reasons.

15. *First*, Clause Three is false because SJR 38 does not actually create any commissions. In fact, the “House Apportionment Commission” and the “Senatorial Apportionment Commission” already exist under the Missouri Constitution. Mo. Const. art. 3 § 3(a). SJR 38 simply *renames* these existing Commissions as the “House Independent Bipartisan Citizens Commission” and the “Senate Independent Bipartisan Citizens Commission,” respectively.

16. *Second*, Clause Three is misleading because it fails to inform voters that SJR 38 eliminates the office of the Nonpartisan State Demographer, which provides Missouri’s primary defense against partisan gerrymandering.

17. Under current law, the Nonpartisan State Demographer is responsible for drawing district maps, which can only be amended by 70% of the votes in the House and Senatorial Apportionment Commissions. By eliminating the Nonpartisan State Demographer, SJR 38 would instead have maps drawn directly by the renamed Commissions.

18. Indeed, the official bill summary issued by the Senate Research Office acknowledges that SJR 38 would “repeal the post of nonpartisan state demographer and give all redistricting responsibility to the currently *existing* commissions.” See **Exhibit 5** (emphasis added).

19. *Third*, Clause Three falsely asserts that the Commissions would be “independent.” In reality, under SJR 38, every redistricting commissioner would be vetted and nominated by a political party committee at the congressional district or state levels, and would ultimately be appointed by the Missouri Governor to serve on the Commissions. The resulting Commissions would not be “independent,” but would in fact comprise individuals with partisan interests who were hand-selected by the State’s political parties and elected officials.

20. Clause Three therefore asserts that SJR 38 would institute new, “independent” Commissions, when it does nothing of the sort, while altogether failing to mention that SJR 38 eliminates the office of the Nonpartisan State Demographer.

**COUNT 2: CLAUSE THREE VIOLATES §§ 116.155 and 116.190, RSMO, BECAUSE IT MISLEADS VOTERS REGARDING EXISTING REDISTRICTING CRITERIA**

21. Clause Three states that legislative districts must be drawn based on criteria including “minority voter protection, compactness, competitiveness, fairness.” This language is insufficient and unfair because the Missouri Constitution *already* provides that districts are to be drawn on the basis of these factors. If anything, SJR 38 actually undermines and weakens many of these criteria.

22. *First*, with respect to “minority voter protection,” Article III, Section 3(c)(1)(b) of the Missouri Constitution currently provides as a matter of Missouri law that districts not be drawn “with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or diminishing their ability to elect representatives of their choice, whether by themselves or by voting in concert with other persons.” SJR 38 would strike this language, and replace it with new language that narrows the scope of protected groups and fails to contain the same broad minority voter protections. In any case, SJR

38 does not in any way strengthen protections for minority voters, and it is misleading to suggest otherwise. SJR 38 does not even contain the words “minority,” “minority voter,” or “minority voter protection.” By including the words “minority voter protection” in the summary statement, the General Assembly is unfairly characterizing the effect of the Constitutional amendment.

23. *Second*, with respect to “competitiveness” and “fairness,” Article III, Section 3(c)(1)(b) of the Missouri Constitution *already requires* that districts be “designed in a manner that achieves both partisan fairness and, secondarily, competitiveness.” In fact, SJR 38 actually *weakens* these provisions because it provides that all other factors “shall take precedence over partisan fairness and competitiveness.” Clause Three is therefore especially deceptive in that it suggests that SJR 38 will implement these criteria for drawing legislative districts. To the contrary, not only are these criteria already enshrined in the Constitution, but SJR 38 will actually undermine their application in redistricting.

24. *Third*, with respect to “compactness,” Article III, Section 3(c)(1)(e) of the Missouri Constitution already requires that, when possible, districts be “compact in form.” Clause Three misleadingly suggests that SJR 38 will add compactness as a consideration when drawing districts, when in reality SJR 38 does not add compactness because it is already a required factor in redistricting.

**COUNT 3: CLAUSE ONE VIOLATES §§ 116.155 and 116.190, RSMO, BECAUSE IT MISLEADINGLY IGNORES THAT VIRTUALLY ALL GIFTS ARE ALREADY BANNED AND DOES NOT MODIFY THE TWO EXTANT EXCEPTIONS TO CURRENT LIMITS ON LOBBYIST GIFTS**

25. Clause One of the summary statement is insufficient and unfair by claiming that SJR 38 would “[b]an all lobbyist gifts to legislators and their employees.”

26. In fact, the Missouri Constitution already limits the vast majority of lobbyist gifts in the state because it only permits gifts that are not “in excess of five dollars per occurrence.” Mo. Const. art. 3 § 2(b). This prohibition on lobbyist gifts is subject to two exceptions: (i) the five-dollar limit does not apply to gifts from lobbyists to legislators or legislative employees who are their family members; and (ii) the five-dollar limit does not apply to gifts from unpaid lobbyists. Mo. Const. art. 3 § 2(b).

27. Far from “[b]an[ning] all lobbyist gifts,” as Clause One falsely suggests, SJR 38 only purports to reduce the five-dollar limit on *de minimis* gifts to zero, while leaving intact the two existing exceptions.

28. *First*, contrary to the language of Clause One, SJR 38 does not amend the provisions of Article 3, Section 2(b) of the Missouri Constitution that permit legislators and their employees to receive “gifts, family support, or anything of value from those related to them within the fourth degree by blood or marriage.”

29. *Second*, contrary to the language of Clause One, *unpaid* lobbyists will still be able to make gifts of any value to anyone. SJR 38 leaves intact the Missouri Constitution’s current language, which only restricts gifts from a “*paid* lobbyist or lobbyist principal.” Mo. Const. art. 3 § 2(b) (emphasis added). Lobbyists who are not paid would still be able to extend gifts to legislators even if SJR 38 becomes law.

30. Accordingly, as written, Clause One is objectively false, because it claims that all lobbyist gifts would be banned, when in fact they would not be. Moreover, in light of the dramatic and significant changes that SJR 38 will make to redistricting, it is misleading and manipulative for the fifty-word summary statement to devote any precious space—let alone the



entire first clause—to the unremarkable fact that SJR 38 would amend the Constitution to preclude legislators and their employees from receiving gifts from paid lobbyists worth five dollars or less.

**COUNT 4: CLAUSE TWO VIOLATES §§ 116.155 and 116.190, RSMO, BECAUSE IT IS MISLEADING AND OVERBROAD**

31. Clause Two states that the Missouri Constitution would be amended to “[r]educe legislative campaign contribution limits.” Clause Two is insufficient and unfair because SJR 38 changes *only* the contribution limit for candidates for the State Senate.

32. In lieu of a substantive reduction in campaign contribution limits, SJR 38 would make a negligible 4% reduction in the contribution limit for candidates running for the State Senate, to \$2,400 from \$2,500, and would not make any change to the contribution limit for candidates running for the House of Representatives, which would remain fixed at \$2,000.

33. As with Clause One, the language of Clause Two overstates the impact that SJR 38 will have. The changes SJR 38 would make to a single campaign contribution limit would have virtually no effect on political fundraising in Missouri. Clause Two is likely to mislead and deceive voters into believing that SJR 38 would make meaningful reductions in contribution limits for all legislative campaigns, which is untrue. Moreover, by placing such great emphasis on such a minor change, Clause Two unfairly colors the views of the voters.

**PRAYER FOR RELIEF**

Plaintiffs respectfully request an Order from this Court:

- a. Vacating the summary statement approved by the General Assembly as part of SJR 38; and
- b. Ordering the General Assembly to enact a new summary statement that complies with §§ 116.155.2 and 116.190.3, RSMo; or,
- c. In the alternative, certifying the following statutorily compliant summary statement that redresses the foregoing violations of §§ 116.155.2 and 116.190.3 RSMo:

“Shall the Missouri Constitution be amended to:

Eliminate the office of Nonpartisan State Demographer, currently responsible for drawing draft legislative district maps, and give map drawing responsibility to Commissions comprised of partisan representatives; and Make partisan fairness and competitiveness the least important factors when drawing district maps.”

and,

- d. Granting such other and further relief as the Court deems just and proper.

Dated: May 18, 2020

Respectfully Submitted,

**STINSON LLP**

By: /s/ Charles W. Hatfield

Charles W. Hatfield, MO No. 40363  
Alixandra S. Cossette, MO No. 68114  
230 W. McCarty Street  
Jefferson City, Missouri 65101  
Phone: (573) 636-6263  
Facsimile: (573) 636-6231  
chuck.hatfield@stinson.com  
alixandra.cossette@stinson.com

*Attorneys for Plaintiffs*

Barbara Pippens, John Bohney, Cheryl Hibbeler,  
Rebecca Shaw, Bob Minor, James Harmon, Gene  
Davison, and Pat McBride

# Exhibit 1

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and \_\_\_\_\_ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 6<sup>th</sup> day of November, 2018, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and \_\_\_\_\_ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, being first duly sworn, say (print or type names of signers)

RECEIVED  
NOV 23 2016  
MO. SECRETARY OF STATE

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and \_\_\_\_\_ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do \_\_\_\_ do not \_\_\_\_ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

\_\_\_\_\_  
(Name of payer) Signature of Affiant (Person obtaining signatures)

\_\_\_\_\_  
Printed Name of Affiant

\_\_\_\_\_  
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, A.D. 201\_\_\_\_.  
Notary Public (Seal)

\_\_\_\_\_  
Signature of Notary

My commission expires \_\_\_\_\_. Address of Notary (Street, City, State & Zip Code)



NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following Articles and Sections of the Constitution of Missouri: Article I, Section 8 and the following Sections of the Missouri Revised Statutes: Sections 105.450 through 105.496 and Sections 130.011 through 130.160. The proposed amendment revises Article III of the Constitution by amending Sections 2, 5, 7, and 19 and adopting three new sections to be known as Article III Sections 3, 20(c), and 20(d).

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by amending Sections 2, 5, 7, 19, and adopting three new sections to be known as Article III Sections 3, 20(c), and 20(d) to read as follows:

Section 2.

After the effective date of this section, no person serving as a member of or employed by the General Assembly shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist during the time of such service until the expiration of two calendar years after the conclusion of the session of the general assembly in which the member or employee last served and where such service was after the effective date of this section.

(a) No person serving as a member of or employed by the General Assembly shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value from any paid lobbyist or lobbyist principal in excess of five dollars per occurrence. This Article shall not prevent Candidates for the General Assembly, including candidates for reelection, or candidates for offices within the senate or house from accepting campaign contributions consistent with this Article and applicable campaign finance law. Nothing in this section shall prevent individuals from receiving gifts, family support or anything of value from those related to them within the fourth degree by blood or marriage. The dollar limitations of this section shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency and rounded to the nearest dollar amount.

(c) The General Assembly shall make no law authorizing unlimited campaign contributions to candidates for the General Assembly, nor any law that circumvents the contribution limits contained in this Constitution. In addition to other campaign contribution limitations or restrictions provided for by law, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for the General Assembly shall not exceed the following:

(1) To elect an individual to the office of state senator, two thousand five hundred dollars; and

(2) To elect an individual to the office of state representative, two thousand dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this section. Contribution limits set forth herein shall be adjusted on the first day of January in each even-numbered year hereafter by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest dollar amount, for all years after 2018.

(d) No contribution to a candidate for legislative office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution. There shall be a rebuttable presumption that a contribution to a candidate for public office is made or accepted with the intent to circumvent the limitations on contributions imposed in this section when a contribution is received from a committee or organization that is primarily funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. A committee or organization shall be deemed to be primarily funded by a single person, individual, or other committee when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

(e) In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the Missouri Ethics Commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

(f) No candidate shall accept contributions from any federal political action committee unless the committee has filed the same financial disclosure reports that would be required of a Missouri political action committee.

Section 3.

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

(c) The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned [in the following manner:] as provided in this section.

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

(a) Districts shall be established on the basis of total population. Legislative districts shall each have a total population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the total



population of the state reported in the federal decennial census.

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

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

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

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

- (c) Subject to the requirements of subdivisions (1)(a) and (1)(b), Districts shall be composed of contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.
- (d) To the extent consistent with subdivisions (1)(a) – (1)(c) of this subsection, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this preference shall not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.
- (e) Preference shall be that districts are compact in form, but the standards established by subdivisions (1)(a) – (1)(d) of this subsection take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries.

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

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

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

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

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

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

The commission may make changes to the tentative plan of apportionment and map of the proposed districts received from the non-



partisan state demographer provided that such changes are consistent with this section and approved by a vote of at least seven-tenths of the commissioners. If no changes are made or approved as provided for in this subsection, the tentative plan of apportionment and map of proposed districts shall become final. Not later than two months of receiving the tentative plan of apportionment and map of the proposed districts, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts.

[The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

Not later than five months after the appointment of the commission the commission shall receive the tentative plan of apportionment and map of the proposed districts ordered in subsection 4 of this section and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.]

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

No reapportionment shall be subject to the referendum.

#### Section 5.

(a) The Senate shall consist of thirty-four members elected by the qualified voters of the senatorial [respective] districts for a term of four years. [For the election of senators, the state shall be divided into convenient districts of contiguous territory, as compact and nearly equal in population as may be.] Senatorial districts shall be apportioned as provided for in Article III, Section 7.

#### Section 7.

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

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

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

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

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

The commissioners so selected shall [on the fifteenth day, excluding Sundays and holidays, after all members have been selected] within ten days of receiving the tentative plan of apportionment and map of the proposed districts required by this subsection, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary [and]. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable. The commission may make changes to the tentative plan of apportionment and map of the proposed districts received from the non-partisan state demographer provided that such changes are consistent with this Section and the methods and criteria required by Section 3 of this Article for the establishment of districts for the House of Representatives and approved by a vote of at least seven-tenths of the commissioners. If no changes are made or approved as provided for in this subsection, the tentative plan of apportionment and map of proposed districts shall become final. Not later than two months after receiving the tentative plan of apportionment and map of the proposed districts, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts.

[The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.



Not later than five months after the appointment of the commission the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven members.

After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the senate shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.]

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

No reapportionment shall be subject to the referendum.

#### Section 19.

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

(b) Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the "Sunshine Law." Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators, their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate, respectively.

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

#### Section 20(c).

No political fundraising activities or political fundraising event by any member of or candidate for the general assembly, including but not limited to the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political committee, shall occur in or on any premises, property or building owned, leased or controlled by the State of Missouri or any agency or division thereof. Any purposeful violation of this section shall be punishable by imprisonment for up to one year or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

#### Section 20(d).

If any provision of sections 2, 3, 7, 19, or 20(c) or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.



# Exhibit 2

SECOND REGULAR SESSION

# SENATE JOINT RESOLUTION NO. 38

## 100TH GENERAL ASSEMBLY

---

INTRODUCED BY SENATOR HEGEMAN.

---

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

ADRIANE D. CROUSE, Secretary.

4110S.01I

---

### JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment repealing sections 2, 3, and 7, of article III of the Constitution of Missouri, and adopting four new sections in lieu thereof relating to regulating the legislature to limit the influence of partisan or other special interests.

---

*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 2, 3, and 7, article III, Constitution of Missouri, are  
2 repealed and four new sections adopted in lieu thereof, to be known as sections  
3 2, 3, 7, and 10(a), to read as follows:

Section 2. (a) After December 6, 2018, no person serving as a member of  
2 or employed by the general assembly shall act or serve as a paid lobbyist, register  
3 as a paid lobbyist, or solicit prospective employers or clients to represent as a  
4 paid lobbyist during the time of such service until the expiration of two calendar  
5 years after the conclusion of the session of the general assembly in which the  
6 member or employee last served and where such service was after December 6,  
7 2018.

8 (b) No person serving as a member of or employed by the general  
9 assembly shall accept directly or indirectly a gift of any tangible or intangible  
10 item, service, or thing of value from any paid lobbyist or lobbyist principal [in  
11 excess of five dollars per occurrence]. This Article shall not prevent candidates

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

12 for the general assembly, including candidates for reelection, or candidates for  
13 offices within the senate or house from accepting campaign contributions  
14 consistent with this Article and applicable campaign finance law. Nothing in this  
15 section shall prevent individuals from receiving gifts, family support or anything  
16 of value from those related to them within the fourth degree by blood or  
17 marriage. [The dollar limitations of this section shall be increased or decreased  
18 each year by the percentage of increase or decrease from the end of the previous  
19 calendar year of the Consumer Price Index, or successor index as published by the  
20 U.S. Department of Labor, or its successor agency, and rounded to the nearest  
21 dollar amount.]

22 (c) The general assembly shall make no law authorizing unlimited  
23 campaign contributions to candidates for the general assembly, nor any law that  
24 circumvents the contribution limits contained in this Constitution. In addition  
25 to other campaign contribution limitations or restrictions provided for by law, the  
26 amount of contributions made to or accepted by any candidate or candidate  
27 committee from any person other than the candidate in any one election [for the  
28 general assembly] **to the office of state representative or state senator**  
29 shall not exceed [the following:

30 (1) To elect an individual to the office of state senator, two thousand five  
31 hundred dollars; and

32 (2) To elect an individual to the office of state representative,] two  
33 thousand dollars.

34 The contribution limits and other restrictions of this section shall also  
35 apply to any person exploring a candidacy for [a public office listed in this  
36 subsection] **the office of state representative or state senator**.

37 For purposes of this subsection, "base year amount" shall be the  
38 contribution limits prescribed in this section. Contribution limits set forth herein  
39 shall be adjusted on the first day of January in each even-numbered year  
40 hereafter by multiplying the base year amount by the cumulative Consumer Price  
41 Index and rounded to the nearest dollar amount, for all years after 2018.

42 (d) No contribution to a candidate for legislative office shall be made or  
43 accepted, directly or indirectly, in a fictitious name, in the name of another  
44 person, or by or through another person in such a manner as to, or with the  
45 intent to, conceal the identity of the actual source of the contribution. There shall  
46 be a rebuttable presumption that a contribution to a candidate for public office  
47 is made or accepted with the intent to circumvent the limitations on contributions

48 imposed in this section when a contribution is received from a committee or  
49 organization that is primarily funded by a single person, individual, or other  
50 committee that has already reached its contribution limit under any law relating  
51 to contribution limitations. A committee or organization shall be deemed to be  
52 primarily funded by a single person, individual, or other committee when the  
53 committee or organization receives more than fifty percent of its annual funding  
54 from that single person, individual, or other committee.

55 (e) In no circumstance shall a candidate be found to have violated limits  
56 on acceptance of contributions if the Missouri ethics commission, its successor  
57 agency, or a court determines that a candidate has taken no action to indicate  
58 acceptance of or acquiescence to the making of an expenditure that is deemed a  
59 contribution pursuant to this section.

60 (f) No candidate shall accept contributions from any federal political  
61 action committee unless the committee has filed the same financial disclosure  
62 reports that would be required of a Missouri political action committee.

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  
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 elected at each general election and [apportioned] **redistricted** as  
34 provided in this section.

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

43 [a.] **(1)** Districts shall be [established on the basis of total] **as nearly**  
44 **equal as practicable in** population[. Legislative districts shall each have a  
45 total population as nearly equal as practicable to the ideal population for such  
46 districts, determined by dividing the number of districts to be established into the  
47 total population of the state], **and districts shall be drawn on the basis of**  
48 **one person, one vote, using data** reported in the federal decennial  
49 census. **Districts are as nearly equal as practicable in population if no**  
50 **district deviates by more than one percent from the ideal population of**  
51 **the district, as measured by dividing the number of districts into the**  
52 **statewide population data being used, except that a district may**  
53 **deviate by up to three percent if necessary to follow political**  
54 **subdivision lines consistent with subdivision (4) of this subsection;**

55 [b.] **(2)** Districts shall be established in a manner so as to comply with  
56 all requirements of the United States Constitution and applicable federal laws,  
57 including, but not limited to, the Voting Rights Act of 1965 (as

58 amended). [Notwithstanding any other provision of this Article, districts shall  
59 not be drawn with the intent or result of denying or abridging the equal  
60 opportunity of racial or language minorities to participate in the political process  
61 or diminishing their ability to elect representatives of their choice, whether by  
62 themselves or by voting in concert with other persons.] **The following**  
63 **principles shall take precedence over any other part of this**  
64 **constitution: no district shall be drawn in a manner which results in**  
65 **a denial or abridgment of the right of any citizen of the United States**  
66 **to vote on account of race or color; and no district shall be drawn such**  
67 **that members of any community of citizens protected by the preceding**  
68 **clause have less opportunity than other members of the electorate to**  
69 **participate in the political process and to elect representatives of their**  
70 **choice;**

71 [Districts shall be designed in a manner that achieves both partisan  
72 fairness and, secondarily, competitiveness. "Partisan fairness" means that parties  
73 shall be able to translate their popular support into legislative representation  
74 with approximately equal efficiency. "Competitiveness" means that parties'  
75 legislative representation shall be substantially and similarly responsive to shifts  
76 in the electorate's preferences.

77 To this end, the nonpartisan state demographer shall calculate the average  
78 electoral performance of the two parties receiving the most votes in the three  
79 preceding elections for governor, for United States Senate, and for President of  
80 the United States. This index shall be defined as the total votes received by each  
81 party in the three preceding elections for governor, for United States Senate, and  
82 for President of the United States, divided by the total votes cast for both parties  
83 in these elections. Using this index, the nonpartisan state demographer shall  
84 calculate the total number of wasted votes for each party, summing across all of  
85 the districts in the plan. "Wasted votes" are votes cast for a losing candidate or  
86 for a winning candidate in excess of the fifty percent threshold needed for victory.  
87 In any plan of apportionment and map of the proposed districts submitted to the  
88 respective apportionment commission, the nonpartisan state demographer shall  
89 ensure the difference between the two parties' total wasted votes, divided by the  
90 total votes cast for the two parties, is as close to zero as practicable.

91 To promote competitiveness, the nonpartisan state demographer shall use  
92 the electoral performance index to simulate elections in which the hypothetical  
93 statewide vote shifts by one percent, two percent, three percent, four percent, and

94 five percent in favor of each party. The vote in each individual district shall be  
95 assumed to shift by the same amount as the statewide vote. The nonpartisan  
96 state demographer shall ensure that, in each of these simulated elections, the  
97 difference between the two parties' total wasted votes, divided by the total votes  
98 cast for the two parties, is as close to zero as practicable;

99 c.] (3) Subject to the requirements of [paragraphs a. and b. of this  
100 subdivision] **subdivisions (1) and (2) of this subsection**, districts shall be  
101 composed of contiguous territory **as compact as may be**. Areas which meet  
102 only at the points of adjoining corners are not contiguous. **In general, compact**  
103 **districts are those which are square, rectangular, or hexagonal in shape**  
104 **to the extent permitted by natural or political boundaries;**

105 [d.] (4) To the extent consistent with [paragraphs a. to c. of this  
106 subdivision, district boundaries shall coincide with the boundaries of political  
107 subdivisions of the state. The number of counties and cities divided among more  
108 than one district shall be as small as possible. When there is a choice between  
109 dividing local political subdivisions, the more populous subdivisions shall be  
110 divided before the less populous, but this preference shall not apply to a  
111 legislative district boundary drawn along a county line which passes through a  
112 city that lies in more than one county] **subdivisions (1) to (3) of this**  
113 **subsection, communities shall be preserved. Districts shall satisfy this**  
114 **requirement if district lines follow political subdivision lines to the**  
115 **extent possible, using the following criteria, in order of priority. First,**  
116 **each county shall wholly contain as many districts as its population**  
117 **allows. Second, if a county wholly contains one or more districts, the**  
118 **remaining population shall be wholly joined in a single district made**  
119 **up of population from outside the county. If a county does not wholly**  
120 **contain a district, then no more than two segments of a county shall be**  
121 **combined with an adjoining county. Third, split counties and county**  
122 **segments, defined as any part of the county that is in a district not**  
123 **wholly within that county, shall each be as few as possible. Fourth, as**  
124 **few municipal lines shall be crossed as possible;**

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

130           (5) Districts shall be drawn in a manner that achieves both  
 131 partisan fairness and, secondarily, competitiveness, but the standards  
 132 established by subdivisions (1) to (4) of this subsection shall take  
 133 precedence over partisan fairness and competitiveness. "Partisan  
 134 fairness" means that parties shall be able to translate their popular  
 135 support into legislative representation with approximately equal  
 136 efficiency. "Competitiveness" means that parties' legislative  
 137 representation shall be substantially and similarly responsive to shifts  
 138 in the electorate's preferences.

139           To this end, the average electoral performance of the two  
 140 political parties receiving the most votes in the three preceding general  
 141 elections for governor, for United States Senate, and for President of  
 142 the United States shall be calculated. This index shall be defined as the  
 143 total votes received by each party in the three preceding general  
 144 elections for governor, for United States Senate, and for President of  
 145 the United States, divided by the total votes cast for both parties in  
 146 these elections. Using this index, the total number of wasted votes for  
 147 each party, summing across all of the districts in the plan shall be  
 148 calculated. "Wasted votes" are votes cast for a losing candidate or for  
 149 a winning candidate in excess of the threshold needed for victory. In  
 150 any redistricting plan and map of the proposed districts, the difference  
 151 between the two parties' total wasted votes, divided by the total votes  
 152 cast for the two parties, shall not exceed fifteen percent.

153           To promote competitiveness, the electoral performance index  
 154 shall be used to simulate elections in which the hypothetical statewide  
 155 vote shifts by one percent, two percent, three percent, four percent, and  
 156 five percent in favor of each party. The vote in each individual district  
 157 shall be assumed to shift by the same amount as the statewide vote. In  
 158 each of these simulated elections, the difference between the two  
 159 parties' total wasted votes, divided by the total votes cast for the two  
 160 parties, shall not exceed fifteen percent.

161           [(2)] (c) Within [sixty] ten days after the population of this state is  
 162 reported to the President for each decennial census of the United States or, in the  
 163 event that a [reapportionment] **redistricting plan** has been invalidated by a  
 164 court of competent jurisdiction, within [sixty] ten days that such a ruling has  
 165 been made, **the state committee and** the congressional district [committee]  
 166 **committees** of each of the two **political** parties casting the highest vote for



167 governor at the last preceding **general** election shall meet and the members of  
168 **[the] each** committee shall nominate, by a majority vote of the **elected** members  
169 of the committee present, provided that a majority of the elected members is  
170 present, **[two]** members of their party, residents in that district, **in the case of**  
171 **a congressional district committee**, as nominees for **[reapportionment**  
172 **commissioners] the house independent bipartisan citizens**  
173 **commission**. **[Neither] No** party shall select more than one nominee from any  
174 one state legislative district. The congressional **district** committees shall each  
175 submit to the governor their list of **two** elected nominees. **The state**  
176 **committees shall each submit to the governor their list of five elected**  
177 **nominees**. Within thirty days **thereafter**, the governor shall appoint a **house**  
178 **independent bipartisan citizens** commission consisting of one **[name]**  
179 **nominee** from each list **submitted by each congressional district**  
180 **committee and two nominees from each list submitted by each state**  
181 **committee** to **[reapportion] redistrict** the state into one hundred and  
182 sixty-three representative districts and to establish the numbers and boundaries  
183 of said districts. **No person shall be appointed to both the house**  
184 **independent bipartisan citizens commission and the senate**  
185 **independent bipartisan citizens commission during the same**  
186 **redistricting cycle**.

187       If any **[of the congressional committees] committee** fails to submit a list  
188 within such time, the governor shall appoint a member of his **or her** own choice  
189 **[from that district and] from the political party of the committee failing to [make**  
190 **the appointment] submit a list, provided that in the case of a**  
191 **congressional district committee failing to submit a list, the person**  
192 **appointed to the commission by the governor shall reside in the**  
193 **congressional district of such committee**.

194       Members of the commission shall be disqualified from holding office as  
195 members of the general assembly for four years following the date of the filing by  
196 the commission of its final **[statement of apportionment] redistricting plan**.

197       For the purposes of this Article, the term congressional district committee  
198 or congressional district refers to the congressional district committee or the  
199 congressional district from which a congressman was last elected, or, in the event  
200 members of congress from this state have been elected at large, the term  
201 congressional district committee refers to those persons who last served as the  
202 congressional district committee for those districts from which congressmen were

203 last elected, and the term congressional district refers to those districts from  
 204 which congressmen were last elected. Any action pursuant to this section by the  
 205 congressional district committee shall take place only at duly called meetings,  
 206 shall be recorded in their official minutes and only members present in person  
 207 shall be permitted to vote.

208       [(3) Within six months after the population of this state is reported to the  
 209 President for each decennial census of the United States or, in the event that a  
 210 reapportionment has been invalidated by a court of competent jurisdiction, within  
 211 six months after such a ruling has been made, the nonpartisan state demographer  
 212 shall make public and file with the secretary of state and with the house  
 213 apportionment commission a tentative plan of apportionment and map of the  
 214 proposed districts, as well as all demographic and partisan data used in the  
 215 creation of the plan and map.]

216       **(d)** The commissioners so selected shall, [within ten days of receiving the  
 217 tentative plan of apportionment and map of the proposed districts,] **on the**  
 218 **fifteenth day, excluding Sundays and state holidays, after all members**  
 219 **have been appointed,** meet in the capitol building and proceed to organize by  
 220 electing from their number a chairman, vice chairman and secretary. The  
 221 commission shall adopt an agenda establishing at least three hearing dates on  
 222 which hearings open to the public shall be held to hear objections or testimony  
 223 from interested persons. A copy of the agenda shall be filed with the clerk of the  
 224 house of representatives within twenty-four hours after its adoption. Executive  
 225 meetings may be scheduled and held as often as the commission deems advisable.

226       [The commission may make changes to the tentative plan of apportionment  
 227 and map of the proposed districts received from the nonpartisan state  
 228 demographer provided that such changes are consistent with this section and  
 229 approved by a vote of at least seven-tenths of the commissioners. If no changes  
 230 are made or approved as provided for in this subsection, the tentative plan of  
 231 apportionment and map of proposed districts shall become final. Not later than  
 232 two months of receiving the tentative plan of apportionment and map of the  
 233 proposed districts, the commission shall file with the secretary of state a final  
 234 statement of the numbers and the boundaries of the districts together with a map  
 235 of the districts.]

236       **(e)** **Not later than five months after the appointment of the**  
 237 **commission, the commission shall file with the secretary of state a**  
 238 **tentative redistricting plan and map of the proposed districts and**

239 during the ensuing fifteen days shall hold such public hearings as may  
240 be necessary to hear objections or testimony of interested persons. The  
241 commission shall make public the tentative redistricting plan and map  
242 of the proposed districts, as well as all demographic and partisan data  
243 used in the creation of the plan and map.

244 (f) Not later than six months after the appointment of the  
245 commission, the commission shall file with the secretary of state a final  
246 statement of the numbers and the boundaries of the districts together  
247 with a map of the districts, and no statement shall be valid unless  
248 approved by at least seven-tenths of the members.

249 (g) After the final statement is filed, members of the house of  
250 representatives shall be elected according to such districts until a new  
251 redistricting plan is made as provided in this section, except that if the  
252 final statement is not filed within six months of the time fixed for the  
253 appointment of the commission, the commission shall stand discharged  
254 and the house of representatives shall be redistricted using the same  
255 methods and criteria as described in subsection (b) of this section by  
256 a commission of six members appointed from among the judges of the  
257 appellate courts of the state of Missouri by the state supreme court, a  
258 majority of whom shall sign and file its redistricting plan and map with  
259 the secretary of state within ninety days of the date of the discharge of  
260 the house independent bipartisan citizens commission. The judicial  
261 commission shall make public the tentative redistricting plan and map  
262 of the proposed districts, as well as all demographic and partisan data  
263 used in the creation of the plan and map. Thereafter, members of the  
264 house of representatives shall be elected according to such districts  
265 until a redistricting plan is made as provided in this section.

266 (h) Each member of the commission shall receive as compensation fifteen  
267 dollars a day for each day the commission is in session but not more than one  
268 thousand dollars, and, in addition, shall be reimbursed for his or her actual and  
269 necessary expenses incurred while serving as a member of the commission.

270 (i) No [reapportionment] redistricting plan shall be subject to the  
271 referendum.

272 (j) Any action expressly or implicitly alleging that a redistricting  
273 plan violates this Constitution, federal law, or the United States  
274 Constitution shall be filed in the circuit court of Cole County and shall  
275 name the body that approved the challenged redistricting plan as a

276 defendant. Only an eligible Missouri voter who sustains an individual  
277 injury by virtue of residing in a district that exhibits the alleged  
278 violation, and whose injury is remedied by a differently drawn district,  
279 shall have standing. If the court renders a judgment in which it finds  
280 that a completed redistricting plan exhibits the alleged violation, its  
281 judgment shall adjust only those districts, and only those parts of  
282 district boundaries, necessary to bring the map into compliance. The  
283 supreme court shall have exclusive appellate jurisdiction upon the  
284 filing of a notice of appeal within ten days after the judgment has  
285 become final.

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] **ten** days after the population of this state is reported  
10 to the President for each decennial census of the United States, or within [sixty]  
11 **ten** days after a [reapportionment] **redistricting plan** has been invalidated by  
12 a court of competent jurisdiction, the state committee **and the congressional**  
13 **district committees** of each of the two political parties casting the highest vote  
14 for governor at the last preceding **general** election shall[, at a committee meeting  
15 duly called, select by a vote of the individual committee members, and thereafter  
16 submit to the governor a list of ten persons, and] **meet and the members of**  
17 **each committee shall nominate, by a majority vote of the elected**  
18 **members of the committee present, provided that a majority of the**  
19 **elected members is present, members of their party, residents in that**  
20 **district, in the case of a congressional district committee, as nominees**  
21 **for the senate independent bipartisan citizens commission. No party**  
22 **shall select more than one nominee from any one state legislative**  
23 **district. The congressional district committees shall each submit to the**  
24 **governor their list of two elected nominees. The state committees shall**  
25 **each submit to the governor their list of five elected nominees. Within**  
26 thirty days thereafter the governor shall appoint a **senate independent**

27 **bipartisan citizens** commission **consisting** of [ten members, five] **two**  
28 **nominees** from each list **submitted by each state committee and one**  
29 **nominee from each list submitted by each congressional district**  
30 **committee, to [reapportion] redistrict** the thirty-four senatorial districts and  
31 to establish the numbers and boundaries of said districts. **No person shall be**  
32 **appointed to both the house independent bipartisan citizens**  
33 **commission and the senate independent bipartisan citizens commission**  
34 **during the same redistricting cycle.**

35       If [either of the party committees] **any committee** fails to submit a list  
36 within such time, the governor shall appoint [five members] **a member** of his **or**  
37 **her** own choice from the **political** party of the committee [so] failing to [act]  
38 **submit a list, provided that in the case of a congressional district**  
39 **committee failing to submit a list, the person appointed to the**  
40 **commission by the governor shall reside in the congressional district**  
41 **of such committee.**

42       Members of the commission shall be disqualified from holding office as  
43 members of the general assembly for four years following the date of the filing by  
44 the commission of its final [statement of apportionment] **redistricting plan.**

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

51       **(b)** The commissioners so selected shall [within ten days of receiving the  
52 tentative plan of apportionment and map of the proposed districts required by  
53 this subsection], **on the fifteenth day, excluding Sundays and state**  
54 **holidays, after all members have been appointed,** meet in the capitol  
55 building and proceed to organize by electing from their number a chairman, vice  
56 chairman and secretary. The commission shall adopt an agenda establishing at  
57 least three hearing dates on which hearings open to the public shall be held to  
58 hear objections or testimony from interested persons. A copy of the agenda shall  
59 be filed with the secretary of the senate within twenty-four hours after its  
60 adoption. Executive meetings may be scheduled and held as often as the  
61 commission deems advisable. [The commission may make changes to the  
62 tentative plan of apportionment and map of the proposed districts received from

63 the nonpartisan state demographer provided that such changes are consistent  
64 with this section and the methods and criteria required by Section 3 of this  
65 Article for the establishment of districts for the house of representatives and  
66 approved by a vote of at least seven-tenths of the commissioners. If no changes  
67 are made or approved as provided for in this subsection, the tentative plan of  
68 apportionment and map of proposed districts shall become final. Not later than  
69 two months after receiving the tentative plan of apportionment and map of the  
70 proposed districts, the commission shall file with the secretary of state a final  
71 statement of the numbers and the boundaries of the districts together with a map  
72 of the districts.]

73 **(c) The senate independent bipartisan citizens commission shall**  
74 **redistrict the senate using the same methods and criteria as those**  
75 **required by subsection (b), section 3 of this article for the redistricting**  
76 **of the house of representatives.**

77 **(d) Not later than five months after the appointment of the**  
78 **senate independent bipartisan citizens commission, the commission**  
79 **shall file with the secretary of state a tentative redistricting plan and**  
80 **map of the proposed districts and during the ensuing fifteen days shall**  
81 **hold such public hearings as may be necessary to hear objections or**  
82 **testimony of interested persons. The commission shall make public the**  
83 **tentative redistricting plan and map of the proposed districts, as well**  
84 **as all demographic and partisan data used in the creation of the plan**  
85 **and map.**

86 **(e) Not later than six months after the appointment of the**  
87 **commission, the commission shall file with the secretary of state a final**  
88 **statement of the numbers and the boundaries of the districts together**  
89 **with a map of the districts, and no statement shall be valid unless**  
90 **approved by at least seven-tenths of the members.**

91 **(f) After the final statement is filed, senators shall be elected**  
92 **according to such districts until a new redistricting plan is made as**  
93 **provided in this section, except that if the final statement is not filed**  
94 **within six months of the time fixed for the appointment of the**  
95 **commission, the commission shall stand discharged and the senate shall**  
96 **be redistricted using the same methods and criteria as described in**  
97 **subsection (b) of section 3 of this article by a commission of six**  
98 **members appointed from among the judges of the appellate courts of**  
99 **the state of Missouri by the state supreme court, a majority of whom**

100 shall sign and file its redistricting plan and map with the secretary of  
101 state within ninety days of the date of the discharge of the senate  
102 independent bipartisan citizens commission. The judicial commission  
103 shall make public the tentative redistricting plan and map of the  
104 proposed districts, as well as all demographic and partisan data used  
105 in the creation of the plan and map. Thereafter, senators shall be  
106 elected according to such districts until a redistricting plan is made as  
107 provided in this section.

108 (g) Each member of the commission shall receive as compensation fifteen  
109 dollars a day for each day the commission is in session, but not more than one  
110 thousand dollars, and, in addition, shall be reimbursed for his or her actual and  
111 necessary expenses incurred while serving as a member of the commission.

112 (h) No [reapportionment] redistricting plan shall be subject to the  
113 referendum.

114 (i) Any action expressly or implicitly alleging that a redistricting  
115 plan violates this Constitution, federal law, or the United States  
116 Constitution shall be filed in the circuit court of Cole County and shall  
117 name the body that approved the challenged redistricting plan as a  
118 defendant. Only an eligible Missouri voter who sustains an individual  
119 injury by virtue of residing in a district that exhibits the alleged  
120 violation, and whose injury is remedied by a differently drawn district,  
121 shall have standing. If the court renders a judgment in which it finds  
122 that a completed redistricting plan exhibits the alleged violation, its  
123 judgment shall adjust only those districts, and only those parts of  
124 district boundaries, necessary to bring the map into compliance. The  
125 supreme court shall have exclusive appellate jurisdiction upon the  
126 filing of a notice of appeal within ten days after the judgment has  
127 become final.

Section 10(a). The general assembly may enact laws ensuring the  
2 public availability of all records relating to the redistricting process  
3 under sections 3 and 7 of this article.

Section B. Pursuant to chapter 116, and other applicable constitutional  
2 provisions and laws of this state allowing the general assembly to adopt ballot  
3 language for the submission of this joint resolution to the voters of this state, the  
4 official summary statement of this resolution shall be as follows:

5 "Shall the Missouri Constitution be amended to:

6 • Ban lobbyist gifts to legislators and their employees;

- 7           •       Reduce campaign contribution limits;
- 8           •       Create citizen-led independent bipartisan commissions to
- 9               draw state legislative districts based on equal population,
- 10           following the U.S. Constitution, federal law, and other
- 11           criteria, including preserving communities, compactness,
- 12           fairness, and competitiveness?"

✓

Unofficial

Bill

Copy



# Exhibit 3

SECOND REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
SENATE SUBSTITUTE NO. 3 FOR

# SENATE JOINT RESOLUTION NO. 38

100TH GENERAL ASSEMBLY

2020

4110S.08T

---

---

## JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment repealing sections 2, 3, and 7 of article III of the Constitution of Missouri, and adopting three new sections in lieu thereof relating to regulating the legislature to limit the influence of partisan or other special interests.

---

---

*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 2, 3, and 7, article III, Constitution of Missouri, are  
2 repealed and three new sections adopted in lieu thereof, to be known as sections  
3 2, 3, and 7, to read as follows:

Section 2. (a) After December 6, 2018, no person serving as a member of  
2 or employed by the general assembly shall act or serve as a paid lobbyist, register  
3 as a paid lobbyist, or solicit prospective employers or clients to represent as a  
4 paid lobbyist during the time of such service until the expiration of two calendar  
5 years after the conclusion of the session of the general assembly in which the  
6 member or employee last served and where such service was after December 6,  
7 2018.

8 (b) No person serving as a member of or employed by the general  
9 assembly shall accept directly or indirectly a gift of any tangible or intangible  
10 item, service, or thing of value from any paid lobbyist or lobbyist principal [in  
11 excess of five dollars per occurrence]. This Article shall not prevent candidates

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

12 for the general assembly, including candidates for reelection, or candidates for  
13 offices within the senate or house from accepting campaign contributions  
14 consistent with this Article and applicable campaign finance law. Nothing in this  
15 section shall prevent individuals from receiving gifts, family support or anything  
16 of value from those related to them within the fourth degree by blood or  
17 marriage. [The dollar limitations of this section shall be increased or decreased  
18 each year by the percentage of increase or decrease from the end of the previous  
19 calendar year of the Consumer Price Index, or successor index as published by the  
20 U.S. Department of Labor, or its successor agency, and rounded to the nearest  
21 dollar amount.]

22 (c) The general assembly shall make no law authorizing unlimited  
23 campaign contributions to candidates for the general assembly, nor any law that  
24 circumvents the contribution limits contained in this Constitution. In addition  
25 to other campaign contribution limitations or restrictions provided for by law, the  
26 amount of contributions made to or accepted by any candidate or candidate  
27 committee from any person other than the candidate in any one election [for the  
28 general assembly] **to the office of state representative or state senator**  
29 shall not exceed the following:

30 (1) To elect an individual to the office of state senator, two thousand [five]  
31 **four** hundred dollars; and

32 (2) To elect an individual to the office of state representative, two  
33 thousand dollars.

34 The contribution limits and other restrictions of this section shall also  
35 apply to any person exploring a candidacy for [a public office listed in this  
36 subsection] **the office of state representative or state senator**.

37 [For purposes of this subsection, "base year amount" shall be the  
38 contribution limits prescribed in this section. Contribution limits set forth herein  
39 shall be adjusted on the first day of January in each even-numbered year  
40 hereafter by multiplying the base year amount by the cumulative Consumer Price  
41 Index and rounded to the nearest dollar amount, for all years after 2018.]

42 (d) No contribution to a candidate for legislative office shall be made or  
43 accepted, directly or indirectly, in a fictitious name, in the name of another  
44 person, or by or through another person in such a manner as to, or with the  
45 intent to, conceal the identity of the actual source of the contribution. There shall  
46 be a rebuttable presumption that a contribution to a candidate for public office  
47 is made or accepted with the intent to circumvent the limitations on contributions

48 imposed in this section when a contribution is received from a committee or  
49 organization that is primarily funded by a single person, individual, or other  
50 committee that has already reached its contribution limit under any law relating  
51 to contribution limitations. A committee or organization shall be deemed to be  
52 primarily funded by a single person, individual, or other committee when the  
53 committee or organization receives more than fifty percent of its annual funding  
54 from that single person, individual, or other committee.

55 (e) In no circumstance shall a candidate be found to have violated limits  
56 on acceptance of contributions if the Missouri ethics commission, its successor  
57 agency, or a court determines that a candidate has taken no action to indicate  
58 acceptance of or acquiescence to the making of an expenditure that is deemed a  
59 contribution pursuant to this section.

60 (f) No candidate shall accept contributions from any federal political  
61 action committee unless the committee has filed the same financial disclosure  
62 reports that would be required of a Missouri political action committee.

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  
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 elected at each general election and [apportioned] **redistricted** as  
34 provided in this section.

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

43 [a.] **(1)** Districts shall be [established on the basis of total] **as nearly**  
44 **equal as practicable in population**[. Legislative districts shall each have a  
45 total population as nearly equal as practicable to the ideal population for such  
46 districts, determined by dividing the number of districts to be established into the  
47 total population of the state reported in the federal decennial census], **and shall**  
48 **be drawn on the basis of one person, one vote. Districts are as nearly**  
49 **equal as practicable in population if no district deviates by more than**  
50 **one percent from the ideal population of the district, as measured by**  
51 **dividing the number of districts into the statewide population data**  
52 **being used, except that a district may deviate by up to three percent if**  
53 **necessary to follow political subdivision lines consistent with**  
54 **subdivision (4) of this subsection;**

55 [b.] **(2)** Districts shall be established in a manner so as to comply with  
56 all requirements of the United States Constitution and applicable federal laws,  
57 including, but not limited to, the Voting Rights Act of 1965 (as

58 amended). [Notwithstanding any other provision of this Article, districts shall  
59 not be drawn with the intent or result of denying or abridging the equal  
60 opportunity of racial or language minorities to participate in the political process  
61 or diminishing their ability to elect representatives of their choice, whether by  
62 themselves or by voting in concert with other persons.] **The following**  
63 **principles shall take precedence over any other part of this**  
64 **constitution: no district shall be drawn in a manner which results in a**  
65 **denial or abridgment of the right of any citizen of the United States to**  
66 **vote on account of race or color; and no district shall be drawn such**  
67 **that members of any community of citizens protected by the preceding**  
68 **clause have less opportunity than other members of the electorate to**  
69 **participate in the political process and to elect representatives of their**  
70 **choice;**

71 [Districts shall be designed in a manner that achieves both partisan  
72 fairness and, secondarily, competitiveness. "Partisan fairness" means that parties  
73 shall be able to translate their popular support into legislative representation  
74 with approximately equal efficiency. "Competitiveness" means that parties'  
75 legislative representation shall be substantially and similarly responsive to shifts  
76 in the electorate's preferences.

77 To this end, the nonpartisan state demographer shall calculate the average  
78 electoral performance of the two parties receiving the most votes in the three  
79 preceding elections for governor, for United States Senate, and for President of  
80 the United States. This index shall be defined as the total votes received by each  
81 party in the three preceding elections for governor, for United States Senate, and  
82 for President of the United States, divided by the total votes cast for both parties  
83 in these elections. Using this index, the nonpartisan state demographer shall  
84 calculate the total number of wasted votes for each party, summing across all of  
85 the districts in the plan. "Wasted votes" are votes cast for a losing candidate or  
86 for a winning candidate in excess of the fifty percent threshold needed for victory.  
87 In any plan of apportionment and map of the proposed districts submitted to the  
88 respective apportionment commission, the nonpartisan state demographer shall  
89 ensure the difference between the two parties' total wasted votes, divided by the  
90 total votes cast for the two parties, is as close to zero as practicable.

91 To promote competitiveness, the nonpartisan state demographer shall use  
92 the electoral performance index to simulate elections in which the hypothetical  
93 statewide vote shifts by one percent, two percent, three percent, four percent, and

94 five percent in favor of each party. The vote in each individual district shall be  
95 assumed to shift by the same amount as the statewide vote. The nonpartisan  
96 state demographer shall ensure that, in each of these simulated elections, the  
97 difference between the two parties' total wasted votes, divided by the total votes  
98 cast for the two parties, is as close to zero as practicable;

99 c.] (3) Subject to the requirements of [paragraphs a. and b. of this  
100 subdivision] **subdivisions (1) and (2) of this subsection**, districts shall be  
101 composed of contiguous territory **as compact as may be**. Areas which meet  
102 only at the points of adjoining corners are not contiguous. **In general, compact**  
103 **districts are those which are square, rectangular, or hexagonal in shape**  
104 **to the extent permitted by natural or political boundaries;**

105 [d.] (4) To the extent consistent with [paragraphs a. to c. of this  
106 subdivision, district boundaries shall coincide with the boundaries of political  
107 subdivisions of the state. The number of counties and cities divided among more  
108 than one district shall be as small as possible. When there is a choice between  
109 dividing local political subdivisions, the more populous subdivisions shall be  
110 divided before the less populous, but this preference shall not apply to a  
111 legislative district boundary drawn along a county line which passes through a  
112 city that lies in more than one county] **subdivisions (1) to (3) of this**  
113 **subsection, communities shall be preserved. Districts shall satisfy this**  
114 **requirement if district lines follow political subdivision lines to the**  
115 **extent possible, using the following criteria, in order of priority. First,**  
116 **each county shall wholly contain as many districts as its population**  
117 **allows. Second, if a county wholly contains one or more districts, the**  
118 **remaining population shall be wholly joined in a single district made**  
119 **up of population from outside the county. If a county does not wholly**  
120 **contain a district, then no more than two segments of a county shall be**  
121 **combined with an adjoining county. Third, split counties and county**  
122 **segments, defined as any part of the county that is in a district not**  
123 **wholly within that county, shall each be as few as possible. Fourth, as**  
124 **few municipal lines shall be crossed as possible;**

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



130           (5) Districts shall be drawn in a manner that achieves both  
131 partisan fairness and, secondarily, competitiveness, but the standards  
132 established by subdivisions (1) to (4) of this subsection shall take  
133 precedence over partisan fairness and competitiveness. "Partisan  
134 fairness" means that parties shall be able to translate their popular  
135 support into legislative representation with approximately equal  
136 efficiency. "Competitiveness" means that parties' legislative  
137 representation shall be substantially and similarly responsive to shifts  
138 in the electorate's preferences.

139           To this end, the average electoral performance of the two  
140 political parties receiving the most votes in the three preceding general  
141 elections for governor, for United States Senate, and for President of  
142 the United States shall be calculated. This index shall be defined as the  
143 total votes received by each party in the three preceding general  
144 elections for governor, for United States Senate, and for President of  
145 the United States, divided by the total votes cast for both parties in  
146 these elections. Using this index, the total number of wasted votes for  
147 each party, summing across all of the districts in the plan shall be  
148 calculated. "Wasted votes" are votes cast for a losing candidate or for  
149 a winning candidate in excess of the threshold needed for victory. In  
150 any redistricting plan and map of the proposed districts, the difference  
151 between the two parties' total wasted votes, divided by the total votes  
152 cast for the two parties, shall not exceed fifteen percent.

153           To promote competitiveness, the electoral performance index  
154 shall be used to simulate elections in which the hypothetical statewide  
155 vote shifts by one percent, two percent, three percent, four percent, and  
156 five percent in favor of each party. The vote in each individual district  
157 shall be assumed to shift by the same amount as the statewide vote. In  
158 each of these simulated elections, the difference between the two  
159 parties' total wasted votes, divided by the total votes cast for the two  
160 parties, shall not exceed fifteen percent.

161           [(2)] (c) Within sixty days after the population of this state is reported  
162 to the President for each decennial census of the United States or, in the event  
163 that a [reapportionment] **redistricting plan** has been invalidated by a court of  
164 competent jurisdiction, within sixty days that such a ruling has been made, **the**  
165 **state committee and** the congressional district [committee] **committees** of  
166 each of the two **political** parties casting the highest vote for governor at the last



167 preceding **general** election shall meet and the members of [the] **each** committee  
168 shall nominate, by a majority vote of the **elected** members of the committee  
169 present, provided that a majority of the elected members is present, [two]  
170 members of their party, residents in that district, **in the case of a**  
171 **congressional district committee**, as nominees for [reapportionment  
172 commissioners] **the house independent bipartisan citizens**  
173 **commission**. [Neither] **No** party shall select more than one nominee from any  
174 one state legislative district. The congressional **district** committees shall each  
175 submit to the governor their list of **two** elected nominees. **The state**  
176 **committees shall each submit to the governor their list of five elected**  
177 **nominees**. Within thirty days **thereafter**, the governor shall appoint a **house**  
178 **independent bipartisan citizens** commission consisting of one [name]  
179 **nominee** from each list **submitted by each congressional district**  
180 **committee and two nominees from each list submitted by each state**  
181 **committee** to [reapportion] **redistrict** the state into one hundred and  
182 sixty-three representative districts and to establish the numbers and boundaries  
183 of said districts. **No person shall be appointed to both the house**  
184 **independent bipartisan citizens commission and the senate**  
185 **independent bipartisan citizens commission during the same**  
186 **redistricting cycle**.

187       If any [of the congressional committees] **committee** fails to submit a list  
188 within such time, the governor shall appoint a member of his **or her** own choice  
189 [from that district and] from the political party of the committee failing to [make  
190 the appointment] **submit a list, provided that in the case of a**  
191 **congressional district committee failing to submit a list, the person**  
192 **appointed to the commission by the governor shall reside in the**  
193 **congressional district of such committee**.

194       Members of the commission shall be disqualified from holding office as  
195 members of the general assembly for four years following the date of the filing by  
196 the commission of its final [statement of apportionment] **redistricting plan**.

197       For the purposes of this Article, the term congressional district committee  
198 or congressional district refers to the congressional district committee or the  
199 congressional district from which a congressman was last elected, or, in the event  
200 members of congress from this state have been elected at large, the term  
201 congressional district committee refers to those persons who last served as the  
202 congressional district committee for those districts from which congressmen were

203 last elected, and the term congressional district refers to those districts from  
204 which congressmen were last elected. Any action pursuant to this section by the  
205 congressional district committee shall take place only at duly called meetings,  
206 shall be recorded in their official minutes and only members present in person  
207 shall be permitted to vote.

208 [(3) Within six months after the population of this state is reported to the  
209 President for each decennial census of the United States or, in the event that a  
210 reapportionment has been invalidated by a court of competent jurisdiction, within  
211 six months after such a ruling has been made, the nonpartisan state demographer  
212 shall make public and file with the secretary of state and with the house  
213 apportionment commission a tentative plan of apportionment and map of the  
214 proposed districts, as well as all demographic and partisan data used in the  
215 creation of the plan and map.]

216 (d) The commissioners so selected shall, [within ten days of receiving the  
217 tentative plan of apportionment and map of the proposed districts,] **on the**  
218 **fifteenth day, excluding Sundays and state holidays, after all members**  
219 **have been appointed**, meet in the capitol building and proceed to organize by  
220 electing from their number a chairman, vice chairman and secretary. The  
221 commission shall adopt an agenda establishing at least three hearing dates on  
222 which hearings open to the public shall be held to hear objections or testimony  
223 from interested persons. A copy of the agenda shall be filed with the clerk of the  
224 house of representatives within twenty-four hours after its adoption. Executive  
225 meetings may be scheduled and held as often as the commission deems advisable.

226 [The commission may make changes to the tentative plan of apportionment  
227 and map of the proposed districts received from the nonpartisan state  
228 demographer provided that such changes are consistent with this section and  
229 approved by a vote of at least seven-tenths of the commissioners. If no changes  
230 are made or approved as provided for in this subsection, the tentative plan of  
231 apportionment and map of proposed districts shall become final. Not later than  
232 two months of receiving the tentative plan of apportionment and map of the  
233 proposed districts, the commission shall file with the secretary of state a final  
234 statement of the numbers and the boundaries of the districts together with a map  
235 of the districts.]

236 (e) **Not later than five months after the appointment of the**  
237 **commission, the commission shall file with the secretary of state a**  
238 **tentative redistricting plan and map of the proposed districts and**

239 during the ensuing fifteen days shall hold such public hearings as may  
240 be necessary to hear objections or testimony of interested persons. The  
241 commission shall make public the tentative redistricting plan and map  
242 of the proposed districts, as well as all demographic and partisan data  
243 used in the creation of the plan and map.

244 (f) Not later than six months after the appointment of the  
245 commission, the commission shall file with the secretary of state a final  
246 statement of the numbers and the boundaries of the districts together  
247 with a map of the districts, and no statement shall be valid unless  
248 approved by at least seven-tenths of the members.

249 (g) After the final statement is filed, members of the house of  
250 representatives shall be elected according to such districts until a new  
251 redistricting plan is made as provided in this section, except that if the  
252 final statement is not filed within six months of the time fixed for the  
253 appointment of the commission, the commission shall stand discharged  
254 and the house of representatives shall be redistricted using the same  
255 methods and criteria as described in subsection (b) of this section by  
256 a commission of six members appointed from among the judges of the  
257 appellate courts of the state of Missouri by the state supreme court, a  
258 majority of whom shall sign and file its redistricting plan and map with  
259 the secretary of state within ninety days of the date of the discharge of  
260 the house independent bipartisan citizens commission. The judicial  
261 commission shall make public the tentative redistricting plan and map  
262 of the proposed districts, as well as all demographic and partisan data  
263 used in the creation of the plan and map. Thereafter, members of the  
264 house of representatives shall be elected according to such districts  
265 until a redistricting plan is made as provided in this section.

266 (h) Each member of the commission shall receive as compensation fifteen  
267 dollars a day for each day the commission is in session but not more than one  
268 thousand dollars, and, in addition, shall be reimbursed for his or her actual and  
269 necessary expenses incurred while serving as a member of the commission.

270 (i) No [reapportionment] redistricting plan shall be subject to the  
271 referendum.

272 (j) Any action expressly or implicitly alleging that a redistricting  
273 plan violates this Constitution, federal law, or the United States  
274 Constitution shall be filed in the circuit court of Cole County and shall  
275 name the body that approved the challenged redistricting plan as a

276 defendant. Only an eligible Missouri voter who sustains an individual  
277 injury by virtue of residing in a district that exhibits the alleged  
278 violation, and whose injury is remedied by a differently drawn district,  
279 shall have standing. If the court renders a judgment in which it finds  
280 that a completed redistricting plan exhibits the alleged violation, its  
281 judgment shall adjust only those districts, and only those parts of  
282 district boundaries, necessary to bring the map into compliance. The  
283 supreme court shall have exclusive appellate jurisdiction upon the  
284 filing of a notice of appeal within ten days after the judgment has  
285 become final.

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] **redistricting plan** has been invalidated by a court  
12 of competent jurisdiction, the state committee **and the congressional district**  
13 **committees** of each of the two political parties casting the highest vote for  
14 governor at the last preceding **general** election shall[, at a committee meeting  
15 duly called, select by a vote of the individual committee members, and thereafter  
16 submit to the governor a list of ten persons, and] **meet and the members of**  
17 **each committee shall nominate, by a majority vote of the elected**  
18 **members of the committee present, provided that a majority of the**  
19 **elected members is present, members of their party, residents in that**  
20 **district, in the case of a congressional district committee, as nominees**  
21 **for the senate independent bipartisan citizens commission. No party**  
22 **shall select more than one nominee from any one state legislative**  
23 **district. The congressional district committees shall each submit to the**  
24 **governor their list of two elected nominees. The state committees shall**  
25 **each submit to the governor their list of five elected nominees. Within**  
26 thirty days thereafter the governor shall appoint a **senate independent**

27 **bipartisan citizens** commission **consisting** of [ten members, five] **two**  
28 **nominees** from each list **submitted by each state committee and one**  
29 **nominee from each list submitted by each congressional district**  
30 **committee, to [reapportion] redistrict** the thirty-four senatorial districts and  
31 to establish the numbers and boundaries of said districts. **No person shall be**  
32 **appointed to both the house independent bipartisan citizens**  
33 **commission and the senate independent bipartisan citizens commission**  
34 **during the same redistricting cycle.**

35       If [either of the party committees] **any committee** fails to submit a list  
36 within such time, the governor shall appoint [five members] **a member** of his **or**  
37 **her** own choice from the **political** party of the committee [so] failing to [act]  
38 **submit a list, provided that in the case of a congressional district**  
39 **committee failing to submit a list, the person appointed to the**  
40 **commission by the governor shall reside in the congressional district**  
41 **of such committee.**

42       Members of the commission shall be disqualified from holding office as  
43 members of the general assembly for four years following the date of the filing by  
44 the commission of its final [statement of apportionment] **redistricting plan.**

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

51       **(b)** The commissioners so selected shall [within ten days of receiving the  
52 tentative plan of apportionment and map of the proposed districts required by  
53 this subsection], **on the fifteenth day, excluding Sundays and state**  
54 **holidays, after all members have been appointed,** meet in the capitol  
55 building and proceed to organize by electing from their number a chairman, vice  
56 chairman and secretary. The commission shall adopt an agenda establishing at  
57 least three hearing dates on which hearings open to the public shall be held to  
58 hear objections or testimony from interested persons. A copy of the agenda shall  
59 be filed with the secretary of the senate within twenty-four hours after its  
60 adoption. Executive meetings may be scheduled and held as often as the  
61 commission deems advisable. [The commission may make changes to the  
62 tentative plan of apportionment and map of the proposed districts received from



63 the nonpartisan state demographer provided that such changes are consistent  
64 with this section and the methods and criteria required by Section 3 of this  
65 Article for the establishment of districts for the house of representatives and  
66 approved by a vote of at least seven-tenths of the commissioners. If no changes  
67 are made or approved as provided for in this subsection, the tentative plan of  
68 apportionment and map of proposed districts shall become final. Not later than  
69 two months after receiving the tentative plan of apportionment and map of the  
70 proposed districts, the commission shall file with the secretary of state a final  
71 statement of the numbers and the boundaries of the districts together with a map  
72 of the districts.]

73 **(c) The senate independent bipartisan citizens commission shall**  
74 **redistrict the senate using the same methods and criteria as those**  
75 **required by subsection (b), section 3 of this article for the redistricting**  
76 **of the house of representatives.**

77 **(d) Not later than five months after the appointment of the**  
78 **senate independent bipartisan citizens commission, the commission**  
79 **shall file with the secretary of state a tentative redistricting plan and**  
80 **map of the proposed districts and during the ensuing fifteen days shall**  
81 **hold such public hearings as may be necessary to hear objections or**  
82 **testimony of interested persons. The commission shall make public the**  
83 **tentative redistricting plan and map of the proposed districts, as well**  
84 **as all demographic and partisan data used in the creation of the plan**  
85 **and map.**

86 **(e) Not later than six months after the appointment of the**  
87 **commission, the commission shall file with the secretary of state a final**  
88 **statement of the numbers and the boundaries of the districts together**  
89 **with a map of the districts, and no statement shall be valid unless**  
90 **approved by at least seven-tenths of the members.**

91 **(f) After the final statement is filed, senators shall be elected**  
92 **according to such districts until a new redistricting plan is made as**  
93 **provided in this section, except that if the final statement is not filed**  
94 **within six months of the time fixed for the appointment of the**  
95 **commission, the commission shall stand discharged and the senate shall**  
96 **be redistricted using the same methods and criteria as described in**  
97 **subsection (b) of section 3 of this article by a commission of six**  
98 **members appointed from among the judges of the appellate courts of**  
99 **the state of Missouri by the state supreme court, a majority of whom**

100 shall sign and file its redistricting plan and map with the secretary of  
101 state within ninety days of the date of the discharge of the senate  
102 independent bipartisan citizens commission. The judicial commission  
103 shall make public the tentative redistricting plan and map of the  
104 proposed districts, as well as all demographic and partisan data used  
105 in the creation of the plan and map. Thereafter, senators shall be  
106 elected according to such districts until a redistricting plan is made as  
107 provided in this section.

108 (g) Each member of the commission shall receive as compensation fifteen  
109 dollars a day for each day the commission is in session, but not more than one  
110 thousand dollars, and, in addition, shall be reimbursed for his or her actual and  
111 necessary expenses incurred while serving as a member of the commission.

112 (h) No [reapportionment] redistricting plan shall be subject to the  
113 referendum.

114 (i) Any action expressly or implicitly alleging that a redistricting  
115 plan violates this Constitution, federal law, or the United States  
116 Constitution shall be filed in the circuit court of Cole County and shall  
117 name the body that approved the challenged redistricting plan as a  
118 defendant. Only an eligible Missouri voter who sustains an individual  
119 injury by virtue of residing in a district that exhibits the alleged  
120 violation, and whose injury is remedied by a differently drawn district,  
121 shall have standing. If the court renders a judgment in which it finds  
122 that a completed redistricting plan exhibits the alleged violation, its  
123 judgment shall adjust only those districts, and only those parts of  
124 district boundaries, necessary to bring the map into compliance. The  
125 supreme court shall have exclusive appellate jurisdiction upon the  
126 filing of a notice of appeal within ten days after the judgment has  
127 become final.

Section B. Pursuant to chapter 116, and other applicable constitutional  
2 provisions and laws of this state allowing the general assembly to adopt ballot  
3 language for the submission of this joint resolution to the voters of this state, the  
4 official summary statement of this resolution shall be as follows:

5 "Shall the Missouri Constitution be amended to:

- 6 • Ban all lobbyist gifts to legislators and their employees;
- 7 • Reduce legislative campaign contribution limits; and
- 8 • Create citizen-led independent bipartisan commissions to

9 draw state legislative districts based on one person, one  
10 vote, minority voter protection, compactness,  
11 competitiveness, fairness, and other criteria?"

✓

Unofficial

Bill

Copy



# Exhibit 4

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4110-08  
Bill No.: Perfected SS#3 for SJR 38  
Subject: Constitutional Amendments; Ethics; General Assembly; Redistricting; Sunshine Law  
Type: Original  
Date: February 4, 2020

---

Bill Summary: This proposal modifies provisions regulating the legislature to limit the influence of partisan or other special interests.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	\$0 or (More than \$7,800,000)	\$0 or \$100,000	\$0 or \$100,000
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0 or (More than \$7,800,000)</b>	<b>\$0 or \$100,000</b>	<b>\$0 or \$100,000</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	0 or <1 FTE>	0 or <1 FTE>	0 or <1 FTE>
<b>Total Estimated Net Effect on FTE</b>	<b>0 or &lt;1 FTE&gt;</b>	<b>0 or &lt;1 FTE&gt;</b>	<b>0 or &lt;1 FTE&gt;</b>

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any Of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<b>Local Government*</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\* Possible transfer out and transfer in net to zero, if put before the voters at a special election

## FISCAL ANALYSIS

### ASSUMPTION

Due to time constraints, **Oversight** was unable to receive some of the agency responses in a timely manner and performed limited analysis. Oversight has presented this fiscal note on the best current information that we have or on information regarding a similar bill(s). Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

In response to similar versions of this joint resolution, officials from the **Office of the Secretary of State (SOS)** stated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Joint Resolutions proposing a constitutional amendment are submitted to a vote of the people at the next general election. Article XII section 2(b) of the Missouri Constitution authorizes the Governor to order a special election for constitutional amendments referred to the people. If a special election is called to submit a Joint Resolution to a vote of the people, section 115.063.2 RSMo requires the state to pay the costs. The cost of the special election has been estimated to be \$7.8 million based on the cost of the 2016 Presidential Preference Primary.

The Secretary of State's office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over \$5.8 million was spent to publish the full text of the measures for the August and November elections. The SOS estimates \$65,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

The Secretary of State's office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, we reserve the right to request funding to meet the

ASSUMPTION (continued)

cost of our publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

**Oversight** has reflected in this fiscal note, the state potentially reimbursing local political subdivisions the cost of having this joint resolution voted on during a special election in fiscal year 2021. This reflects the decision made by the Joint Committee on Legislative Research, that the cost of the elections should be shown in the fiscal note. The next scheduled statewide primary election is in August 2020 and the next scheduled general election is in November 2020 (both in FY 2021). It is assumed the subject within this proposal could be on one of these ballots; however, it could also be on a special election called for by the Governor (on a different date). Therefore, Oversight will reflect a potential election cost reimbursement to local political subdivisions in FY 2021.

In response to similar versions of this joint resolution, officials from the **Office of the State Auditor**, the **Missouri Senate**, the **Missouri House of Representatives** and the **Governor's Office** each assumed no fiscal impact from this proposal.

In response to similar versions of this joint resolution, officials from the **Office of Administration** stated the Joint Resolution makes numerous changes to the redistricting process including eliminating the post of non-partisan state demographer. As this position is not housed within the Office of Administration, this proposal will not have an impact to our agency.

Officials from the **Office of the State Courts Administrator** state there may be some impact, but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

In response to similar versions of this joint resolution, officials from the **Missouri Ethics Commission (MEC)** stated the provision does not have fiscal impact on the MEC. However, if a significant number of entities were to begin reporting such activity as outlined in 130.047, RSMo, additional analysts would be required to assist in providing filing assistance and review of reports filed with the commission. Also, if the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Oversight** notes that several agencies listed above have stated the proposal would not have a direct fiscal impact on their respective organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

ASSUMPTION (continued)

Oversight notes the Nonpartisan State Demographer position will be eliminated if this joint resolution passes. The Office of Administration lists the annual salary range for a State Demographer as \$52,332 - \$83,436. Oversight notes the following savings (salary plus fringe) to the state would be realized if the Nonpartisan State Demographer is not filled.

	Annual Salary	Fringe Benefits	Total Savings
Low Range	\$52,332	\$29,073	\$81,928
High Range	\$83,436	\$39,506	\$123,776
Salary to reach \$100,000	\$66,000	\$33,658	\$100,658

**Oversight** also notes this joint resolution would place the responsibilities of the Nonpartisan State Demographer with the house independent bipartisan citizens commission and the senate independent bipartisan citizens commission. Oversight assumes the new independent commissions will incur (and be reimbursed) expenses in redistricting years. Oversight will assume reimbursed expenses of less than \$100,000 in FY 2021 for these commissions.

**Oversight** will range the potential fiscal impact of not hiring a Nonpartisan State Demographer as \$100,000 for each year, dependent upon the joint resolution being passed by voters. Oversight will also reflect the possibility of reimbursing the commissions of Less than \$100,000 in FY 2021 for their service.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
<b>GENERAL REVENUE FUND</b>			
<u>Savings</u> - if the joint resolution is passed by voters, the Nonpartisan State Demographer position is eliminated	\$0 or \$100,000	\$0 or \$100,000	\$0 or \$100,000
<u>Costs</u> - of independent bipartisan citizens commission (if passed by voters)	\$0 or (Less than \$100,000)	\$0	\$0
<u>Transfer Out</u> - SOS - reimbursement of local election authority election costs <b>if</b> a special election is called by the Governor	\$0 or (More than \$7,800,000)	<u>\$0</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND</b>	<b>\$0 or (More than <u>\$7,800,000</u>)</b>	<b><u>\$0 or \$100,000</u></b>	<b><u>\$0 or \$100,000</u></b>
Estimated Net FTE Change for General Revenue Fund	<u>&lt;1 FTE&gt;</u>	<u>&lt;1 FTE&gt;</u>	<u>&lt;1 FTE&gt;</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Transfer In</u> - Local Election Authorities - reimbursement of election costs by the State for a special election	\$0 or More than \$7,800,000	\$0	\$0
<u>Costs</u> - Local Election Authorities - cost of a special election <b>if</b> called for by the Governor	\$0 or (More than <u>\$7,800,000</u> )	\$0	\$0
<b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

### FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

### FISCAL DESCRIPTION

This constitutional amendment, if adopted by the voters, makes modifications to Article III, regulating the General Assembly; including gift bans, campaign contribution limitations, and redistricting.

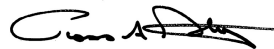
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

### SOURCES OF INFORMATION

Office of the Secretary of State  
Missouri Ethics Commission  
Missouri House of Representatives  
Missouri Senate  
Office of Administration  
Office of the State Auditor  
Office of the Governor  
Office of the State Courts Administrator  
Office of Administration - Budget and Planning



Julie Morff  
Director  
February 4, 2020



Ross Strobe  
Assistant Director  
February 4, 2020



# Exhibit 5

**SJR 38**

Modifies provisions regulating the legislature to limit the influence of partisan or other special interests

**Sponsor:**

Hegeman (<https://www.senate.mo.gov/20web/mem12>)

**LR Number:**

4110S.08T

**Committee:**

Rules, Joint Rules, Resolutions and Ethics (<https://www.senate.mo.gov/RJRR>)

**Last Action:**

5/13/2020 - Truly Agreed To and Finally Passed

**Journal Page:**

S1071 (<https://www.senate.mo.gov/20info/pdf-jrnl/DAY55.pdf#page=40>)

**Title:**

SS#3 SJR 38

**Calendar Position:****Effective Date:**

Upon Voter Approval

**House Handler:**

Plocher (<http://www.house.mo.gov/memberdetails.aspx?year=2020&district=089>)

### Current Bill Summary

SS#3/SJR 38 - This constitutional amendment, if adopted by the voters, makes modifications to Article III, regulating the General Assembly.

#### GIFT BAN

(Article III, Section 2(b))

Current law allows a member of the General Assembly, a staff member of a member of the General Assembly, or a person employed by the General Assembly to receive a gift of no more than \$5 per occurrence from a lobbyist or lobbyist principal. This amendment prohibits all such gifts from lobbyists or lobbyist principals.

#### CAMPAIGN CONTRIBUTION LIMITATIONS

(Article III, Section 2(c))

The amendment provides that in any election to the office of State Senator, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate shall not exceed \$2,400, rather than \$2,500. The amendment additionally repeals a provision subjecting campaign contribution limitations for state senate and state house races to inflation.

#### REDISTRICTING

(Article III, Sections 3 & 7)

#### Independent Bipartisan Citizens Commissions

Under current law, the nonpartisan state demographer is responsible for preparing new redistricting plans for the House of Representatives and the Senate, which plans may be disapproved by bipartisan commissions nominated by the major political parties and appointed by the Governor. This amendment repeals the post of nonpartisan state demographer and gives all redistricting responsibility to the currently-existing commissions, renamed as the House Independent Bipartisan Citizens Commission and the Senate Independent Bipartisan Citizens Commission, respectively. The membership of each commission is modified such that each commission consists of members (20 each, under the current Congressional apportionment) to be appointed by the Governor from lists provided by the state committee and Congressional district committees of each of the two political parties casting the highest vote for Governor at the last preceding gubernatorial election. For each commission, each state committee shall submit a list of 5 nominees to the Governor and each Congressional district committee shall submit a list of 2 nominees to the Governor. The Governor shall select 2 nominees from each list submitted by each state committee and 1 nominee from each list submitted by each Congressional district committee. No member of either commission may be a member of the other commission.

## REDISTRICTING CRITERIA

The order of priority for the criteria that is to be used in preparing redistricting plans is as follows:

1. No district shall be drawn in a manner which would result in the denial or abridgment of the right of any person to vote on account of race or color. Furthermore, no district shall be drawn such that members of a community of protected citizens have less of an opportunity than other members of the electorate to participate in the political process and elect representatives of their choice.
2. Districts shall be as nearly equal as practicable in population and shall be drawn on the basis of one person, one vote. Districts shall not deviate from the ideal population by more than one percent, provided that deviation may be up to three percent if necessary to follow political subdivision lines.
3. Districts must be established in a manner that complies with all requirements of federal law, specifically including the Voting Rights Act of 1965.
4. Districts must consist of contiguous territory as compact as may be, to the extent permitted in conjunction with the above criteria.
5. To the extent permitted in conjunction with the above criteria, communities must be preserved, as described in the amendment.
6. Districts must be drawn to achieve partisan fairness and competitiveness, provided that all preceding criteria shall take precedence. Furthermore, current law provides that, in any redistricting plan, the difference between the total "wasted votes" of the two major political parties divided by the total votes cast for such parties shall be as close to zero as practicable. This amendment modifies that requirement by prohibiting such difference from exceeding 15%.

## REDISTRICTING TIMELINE

Each commission must file a tentative redistricting plan and proposed maps with the Secretary of State within 5 months of appointment. A final statement of such plan and maps must be filed within 6 months with the approval of at least seven-tenths of the respective commission (14 out of 20 members under the current Congressional apportionment). If either commission fails to file its plan with the Secretary of State within such time period, then the commission failing to do so shall stand discharged and the respective chamber of the General Assembly shall be redistricted using the same criteria listed above by a commission of six members appointed by the Supreme Court from among the judges of the appellate courts of the state of Missouri.

## ACTIONS CHALLENGING REDISTRICTING PLANS

Any action expressly or implicitly alleging that a redistricting plan violates the Missouri Constitution, federal law, or the United States Constitution must be filed in the Circuit Court of Cole County and shall name the respective commission that approved the challenged plan as a defendant. In order to bring such an action, a plaintiff must be a Missouri voter who resides in a district that exhibits an alleged violation and who would be remedied by a differently drawn district. If the court renders a judgment in which it finds that a completed redistricting plan exhibits the alleged violation, the court may only adjust those districts necessary to bring the map into compliance. The Supreme Court shall have exclusive appellate jurisdiction upon the filing of a notice of appeal within ten days after the judgment has become final.

This constitutional amendment is substantially similar to SJR 49 (2020), SJR 57 (2020), and HCS/HJRs 101 & 76 (2020) and similar to SJR 29 (2019) and HCS/HJRs 48, 46, & 47 (2019).

SCOTT SVAGERA

### Amendments

- 4110S.05F - SS Withdrawn (ShowAmendment.aspx?Id=2619)
- 4110S05.09S - SA 1 Moot (ShowAmendment.aspx?Id=2620)
- 4110S05.20S - SSA 1 SA 1 Withdrawn (ShowAmendment.aspx?Id=2623)
- 4110S05.19S - SA 1 SSA 1 SA 1 Withdrawn (ShowAmendment.aspx?Id=2625)
- 4110S.06F - SS#2 Withdrawn (ShowAmendment.aspx?Id=2626)
- 4110S06.04S - SA 1 SS#2 Moot (ShowAmendment.aspx?Id=2627)
- 4110S.08F - SS #3 Adopted, as amended (ShowAmendment.aspx?Id=2629)
- 4110S08.01S - SA 1 SS#3 Adopted (ShowAmendment.aspx?Id=2630)