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JOHN R. ASHCROFT  
SECRETARY OF STATE  
STATE OF MISSOURI

ELECTIONS DIVISION  
(573) 751-2301

July 25, 2019

RECEIVED

JUL 25 2019

STATE AUDITORS OFFICE

The Honorable Nicole Galloway  
State Auditor  
State Capitol Building  
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed constitutional amendment to Article III (2020-102)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Winston Apple on July 25, 2019.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt  
Sheri Hoffman  
Trish Vincent

County \_\_\_\_\_  
Page No. \_\_\_\_\_

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 John R. Ashcroft, 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 3<sup>rd</sup> day of November, 2020, 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 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)  
(Petition Circulator's Printed Name)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	Zip Code	Congr. Dist.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					

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

Signature of Affiant (Person obtaining signatures)

Street address of Affiant

Printed Name of Affiant

City, State and Zip Code of Affiant

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_

Signature of Notary

Notary Public (Seal)

Address of Notary

My commission expires: \_\_\_\_\_



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

Article III of the Constitution is revised by repealing Sections 10 and 14 and amending Sections 3, 5, 6, 7, 9, 11 and 20(d), to read as follows:

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

[(b) The nonpartisan state demographer shall be selected through the following process. First, state residents may apply for selection to the state auditor using an application developed by the state auditor to determine an applicant's qualifications and expertise relevant to the position. Second, the state auditor shall deliver to the majority leader and minority leader of the senate a list of at least three applicants with sufficient expertise and qualifications, as determined by the state auditor, to perform the duties of the nonpartisan 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 nonpartisan 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 nonpartisan 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 nonpartisan state demographer shall serve a term of five years and may be reappointed. To be eligible for the nonpartisan state demographer position, an individual shall not have served in a partisan, elected position for four years prior to the appointment. The nonpartisan 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] twenty members from each congressional district elected at each general election [and apportioned as provided in this section] for a term of two years.

[(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 nonpartisan 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 nonpartisan 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 nonpartisan 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 nonpartisan 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 nonpartisan 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 nonpartisan 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 paragraphs a. and b. of this subdivision, 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 paragraphs a. to c. of this subdivision, 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 paragraphs a. to d. of this subdivision 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 or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days 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 nonpartisan 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, 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. 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 nonpartisan 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.

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.]

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

Article III Section 6. Each senator shall be thirty years of age, and next before the day of his election shall have been a qualified voter and a resident of the state for [three] two years [and a resident of the district which he is chosen to represent for one year, if such district shall have been so long established, and if not, then of the district or districts from which the same shall have been taken].

Article III Section 7. [(a) 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 nonpartisan 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.

(b) Within sixty days after the population of this state is reported to the President for each decennial census of the United States, or within sixty days after 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.

(c) 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 nonpartisan 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 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. 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 nonpartisan 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.

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.]

(a) An ordered list of candidates, ranked by number of votes received, from most to least, from each political party that is to appear on the ballot for both the senate and the house of representatives in each general election will be determined by means of a primary election, with each party electing a number of candidates up to, but not exceeding, the number of representatives to be elected from a congressional district, and senators to be elected state-wide. All qualified candidates who file for each party's nomination will appear on the primary ballot for that party. Registered voters will be allowed to vote in one, and only one, party's primary election, and will cast a single vote for a single candidate to be nominated from that party for each office to be elected in the general election to follow.



- (b) A political party having no candidate for statewide office receiving, nor having received as a political party, at least two percent of the total vote in the preceding general election, may qualify for a place on the ballot for the house in each congressional district by presenting petitions signed by one-half of one per cent of the legal voters in that congressional district. An independent candidate may qualify for a place on the ballot in a congressional district by presenting petitions signed by one-fifth of one percent of the legal voters in that congressional district. A political party having no candidate for statewide office receiving, nor having received as a political party, at least two percent of the total vote in the preceding general election, may qualify for a place on the ballot for the senate by presenting petitions signed by one-half of one per cent of the legal voters in the state of Missouri. An independent candidate may qualify for a place on the ballot for the senate by presenting petitions signed by one-fifth of one percent of the legal voters in the state of Missouri. The number of "legal voters" is equal to, and determined by, the total vote for governor in the general election last preceding. Said petitions are to be delivered to the secretary of state no later than ninety days preceding the primary election.
- (c) The signatures on petitions submitted by independent candidates and political parties shall be subject to verification according to the procedures in the code of state regulations for independent candidate petitions in force at the time the petitions are submitted.
- (d) In each general election, each voter will cast a single vote for the election of representatives and a single vote for the election of senators, in each case voting for the ordered list of a political party, or for a single independent candidate appearing on the ballot, or for a single write-in vote for a candidate not appearing on the ballot, having properly registered with the secretary of state as a write-in candidate.
- (e) To determine how many candidates in the house of representatives and the senate will be elected from each political party and which independent or write-in candidates will be elected (if any), the total number of valid votes cast for all parties and independent candidates will be divided by the number of seats to be elected to the house of representatives or to the senate. The resulting number will then be rounded to the nearest whole number. The total number of votes cast for each party or independent or write-in candidate will then be divided by that number and that number of candidates from each party is elected, with any remaining votes for each party above the number needed to elect that many candidates calculated as "surplus votes" for that party. Any independent candidate or valid write-in candidate receiving at least the number of votes needed for a seat is elected. The votes for any party or independent candidate falling short of the number needed to be elected are also treated as surplus votes.
- (f) The number of candidates thus elected is calculated and subtracted from the total number of candidates to be elected. If additional candidates remain to be elected, the highest ordered remaining candidate from the party list or independent candidate with the highest number of surplus votes, is elected. The number of surplus votes required to be elected is then deducted from that party's or candidate's total votes and the process repeated until the requisite number of candidates has been elected.
- (g) A political party or independent candidate having surplus votes, but not having enough surplus votes to win an additional seat, or a seat, may have those surplus votes transferred to another political party or independent candidate by notifying the Secretary of State in writing at least fourteen days before the date of the general election, specifying the political party or independent candidate that is to receive their surplus votes, under these conditions.
- (h) In both primary and general elections, officials shall determine a random selection algorithm, prior to tabulation, to resolve ties between candidates. If a tie occurs at any point in the tabulation procedure and tabulation cannot proceed until the tie is resolved, then the random selection algorithm shall resolve the tie.
- (i) If a senator or representative resigns, dies, or is removed from office for any reason during the subsequent legislative sessions, the seat shall be filled by the next candidate from her or his party's ordered list, or in the case of an independent candidate, the candidate who would have been elected had there been one more member elected using the prescribed method for tabulating votes.

Article III Section 9. Until the convening of the Seventy-fourth General Assembly the House of Representatives shall consist of one hundred sixty-three members elected from the one hundred sixty-three representative districts, as they existed January 1, 1965. Beginning with the election of representatives in the primary and general elections to be held in the year two thousand and twenty-two the House of Representatives shall consist of twenty members elected from each congressional district. In the event that members of Congress from Missouri are elected at large, congressional district boundaries will still be drawn and used in the election of members of the Missouri House of Representatives.

[Article III Section 10. The last decennial census of the United States shall be used in apportioning representatives and determining the population of senatorial and representative districts. Such districts may be altered from time to time as public convenience may require.]

Article III Section 11. The first election of senators and representatives under this constitution, shall be held at the general election in the year one thousand nine hundred and forty-six when the whole number of representatives and the senators from the districts having even numbers, who shall compose the first class, shall be elected, and two years thereafter the whole number of representatives and the senators from districts having odd numbers, who shall compose the second class, shall be elected, and so on at each succeeding general election. Beginning with the primary and general elections to be held in the year two thousand and twenty-two senators will continue to be divided into two classes, with senators from each class, as the term of that class expires, to be elected at large on a state-wide basis.

[Article III Section 14. Writs of election to fill vacancies in either house of the general assembly shall be issued by the governor.]

Article III Section 20(d). If any provision of sections 2, 3, 5, 6, 7, 9, 11, 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.