

SUPREME COURT OF COLORADO

2 East 14th Ave.  
Denver, CO 80203

Original Proceeding  
Pursuant to Colo. Rev. Stat. § 1-40-107(2)  
Appeal from the Ballot Title Board

In the Matter of the Title, Ballot Title, and  
Submission Clause for Proposed Initiative  
2015-2016 #107 (“Colorado Redistricting  
Commission”)

**Petitioner: Donna R. Johnson**

**v.**

**Respondents: Kathleen Curry and Frank  
McNulty**

**and**

**Title Board: SUZANNE STAIERT;  
FREDERICK YARGER; and JASON  
GELENDER**

Attorney for Petitioner:

Mark G. Grueskin, #14621  
RECHT KORNFELD, P.C.  
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DATE FILED: April 13, 2016 9:06 PM

▲ COURT USE ONLY ▲

**Case No. 2016SA125**

**PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE  
SETTING BOARD CONCERNING PROPOSED INITIATIVE 2015-  
2016 #107 (“COLORADO REDISTRICTING COMMISSION”)**

Donna R. Johnson (“Petitioner”), registered elector of the State of Colorado, through undersigned counsel, respectfully petitions this Court pursuant to C.R.S. § 1-40-107(2), to review the actions of the Title Setting Board with respect to the title, ballot title, and submission clause set for Proposed Initiative 2015-2016 #107 (“Colorado Redistricting Commission”).

## **STATEMENT OF THE CASE**

### **A. Procedural History of Proposed Initiative #107**

Kathleen Curry and Frank McNulty (hereafter “Proponents”) proposed Initiative 2015-2016 #107 (the “Proposed Initiative” or “#107”). Review and comment hearings were held before representatives of the Offices of Legislative Council and Legislative Legal Services. Thereafter, the Proponents submitted final versions of the Proposed Initiative to the Secretary of State for purposes of submission to the Title Board, of which the Secretary or his designee is a member.

A Title Board hearing was held on March 16, 2016 to establish the single subject of the Proposed Initiative and set its title. On March 23, 2016, Petitioner filed a Motion for Rehearing, alleging that #107 contained multiple subjects and was misleading and inaccurate, in violation of the constitutional single subject rule in Article V, sec 1(5.5) of the Colorado Constitution and statute. The rehearing was held on April 6, 2016, at which time the Title Board granted in part and denied

in part the Motion for Rehearing, rephrasing parts of the title in response to Objector's Motion.

### **B. Jurisdiction**

Petitioner is entitled to a review before the Colorado Supreme Court pursuant to C.R.S. § 1-40-107(2). Petitioner timely filed the Motion for Rehearing with the Title Board. *See* C.R.S. § 1-40-107(1). Additionally, Petitioner timely filed this Petition for Review within five days from the date of the hearing on the Motion for Rehearing. C.R.S. § 1-40-107(2).

As required by C.R.S. § 1-40-107(2), attached to this Petition for Review are certified copies of: (1) the draft, amended, and final versions of the initiative filed by the Proponents; (2) the original ballot title set for this measure; (3) the Motion for Rehearing filed by the Petitioner; and (4) the rulings on the Motion for Rehearing as reflected by the title and ballot title and submission clause set by the Board. Petitioner believes that the Title Board erred in denying certain aspects of the Motion for Rehearing. Consequently, this matter is properly before this Court.

## **GROUND FOR APPEAL**

In violation of Colo. Const., art. V, sec. 1(5.5), the title set by the Title Board was set notwithstanding the fact that the Proposed Initiative contains multiple subjects. The following is an advisory list of issues to be addressed in Petitioner's brief:

1. Initiative #107 contains multiple subjects in violation of Colo. Const., art. V, sec. (1)(5.5):
  - a. Legislative reapportionment;
  - b. Congressional redistricting which is separate and distinct from legislative reapportionment given, among other factors: the unrelated legal sources of authority that provide the basis for each; the historical separation in treatment by voters of each; the distinct criteria that would govern each; and the different appeal mechanisms that would apply to each.
  - c. The restriction on political involvement as applied to all volunteer and professional lobbyists, which is a separate subject from the proposed revisions in the processes that apply to setting legislative and congressional districts.

## **PRAYER FOR RELIEF**

Petitioner respectfully requests that, after consideration of the parties' briefs, this Court determine that the Proposed Initiative violates the single subject requirement and thus the Title Board lacked jurisdiction to set such title for the Proposed Initiative, rendering the ballot title void.

Respectfully submitted this 13th day of April, 2016.

*/s/ Mark Grueskin*

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**ATTORNEY FOR PETITIONER**

**CERTIFICATE OF SERVICE**

I, Erin Holweger, hereby affirm that a true and accurate copy of the **PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2015-2016 #107 (“COLORADO REDISTRICTING COMMISSION”)** was sent this day, April 13, 2016, via ICCES to counsel for the Title Board:

LeeAnn Morrill  
Matthew Grove  
Office of the Attorney General  
1300 Broadway, 6th Floor  
Denver, CO 80203

And via ICCES to counsel for the Proponents:

Kelley B. Duke  
Benjamin J. Larson  
Ireland Stapleton Pryor & Pascoe, PC  
717 Seventeenth Street, Suite 2800  
Denver, CO 80202

/s/ Erin Holweger

FOR MOTIONS TO AMEND THE INITIAL MAPS WHICH REQUIRE THE  
AFFIRMATIVE VOTE OF AT LEAST SEVEN COMMISSION MEMBERS.

DATE FILED: April 13, 2016 9:06 PM

(g) EXCEPT AS TO MATTERS OTHERWISE PROVIDED FOR HEREIN,  
THE COMMISSION SHALL ADOPT RULES TO GOVERN ITS  
ADMINISTRATION AND OPERATION INCLUDING, BUT NOT LIMITED TO,  
THE FOLLOWING:

(1) MAINTENANCE OF A RECORD OF THE COMMISSION'S  
ACTIVITIES AND PROCEEDINGS, INCLUDING A RECORD OF WRITTEN AND  
ORAL TESTIMONY RECEIVED, AND OF THE CHANGES TO ANY MAP  
DRAFTED BY NONPARTISAN STAFF AND THE RATIONALE FOR SUCH  
CHANGES;

(2) THE PROCESS FOR REMOVAL OF MEMBERS FOR CAUSE;

(3) THE PROCESS FOR RECOMMENDING CHANGES TO  
NONPARTISAN STAFF RELATED TO THE MAPS THAT NONPARTISAN STAFF  
HAS SUBMITTED TO THE COMMISSION; AND

(4) ADOPTION OF A STATEWIDE MEETING AND HEARING  
SCHEDULE.

~~(e)~~ (2) (a) (I) Within ~~one hundred thirteen~~ THIRTY days after the  
commission has been convened or the necessary census data are  
available, whichever is later, the ~~commission~~ NONPARTISAN STAFF shall  
publish a preliminary REDISTRICTING plan for ~~reapportionment of the~~  
~~members of~~ CONGRESSIONAL DISTRICTS AND, NO LATER THAN  
FOURTEEN DAYS AFTER THAT, FOR SENATORIAL DISTRICTS AND  
REPRESENTATIVE DISTRICTS OF the general assembly. and  
NONPARTISAN STAFF SHALL KEEP ALL PLANS PREPARED IN  
ACCORDANCE WITH THIS SECTION CONFIDENTIAL UNTIL THEY HAVE  
BEEN PRESENTED TO THE COMMISSION AT A PROPERLY NOTICED

MEETING OR HEARING OF THE COMMISSION.

(II) IF, FOR ANY REASON, NONPARTISAN STAFF IS UNABLE TO PRESENT PRELIMINARY PLANS TO THE COMMISSION, THE NONPARTISAN STAFF SHALL PUBLISH THE PRELIMINARY PLANS AND ACCEPT PUBLIC COMMENTS ON THE PLANS PRIOR TO SUBMITTING THE PRELIMINARY PLANS DIRECTLY TO THE SUPREME COURT ON THE LAST BUSINESS DAY PRIOR TO OCTOBER 7 OF THAT SAME YEAR. THE COURT'S CONSIDERATION SHALL BE AS TO WHETHER THE PLANS ADHERE TO THE CRITERIA OUTLINED IN THIS SECTION AND SECTIONS 46, 47, AND 47.5 OF THIS ARTICLE.

(b) (I) THE COMMISSION SHALL BE SUBJECT TO COLORADO STATUTORY PROVISIONS CONCERNING OPEN MEETINGS, OPEN RECORDS AND DISCLOSURE BY PUBLIC OFFICIALS, GENERALLY REFERRED TO AS COLORADO SUNSHINE LAWS, AS AMENDED FROM TIME TO TIME BY THE GENERAL ASSEMBLY. FOR THE PURPOSE OF THIS COMMISSION, PROPER NOTICE FOR A MEETING OR HEARING OF THE COMMISSION, INCLUDING TIME, PLACE AND AGENDA, SHALL BE POSTED AT LEAST THREE DAYS PRIOR TO SUCH MEETING ON A WEB SITE DEDICATED BY NONPARTISAN STAFF FOR THE PURPOSE OF REDISTRICTING.

(II) A COMMISSIONER WHO ENGAGES IN COMMUNICATIONS, IF SUCH COMMUNICATIONS ARE MADE OUTSIDE OF A COMMISSION'S PROPERLY NOTICED PUBLIC HEARING AND THE COMMUNICATIONS RELATE TO THE MAPPING OF POLITICAL DISTRICTS, SHALL DISCLOSE, AT EACH MEETING, A LIST OF INDIVIDUALS WITH WHOM THEY HAVE HAD SUCH COMMUNICATIONS;

(III) COMMISSIONERS MAY COMMUNICATE WITH ONE ANOTHER ABOUT THE MAPPING OF POLITICAL DISTRICTS PROVIDED



THAT COMMUNICATION BETWEEN MORE THAN THREE COMMISSIONERS AT ONE TIME MUST BE PROPERLY NOTICED PURSUANT TO THIS SUBSECTION (I). ASIDE FROM TECHNICAL AND OPERATIONAL MATTERS, COMMISSIONERS MAY NOT COMMUNICATE WITH NONPARTISAN STAFF ON THE MAPPING OF POLITICAL DISTRICTS UNLESS THE COMMUNICATION IS DURING A PROPERLY NOTICED MEETING OR HEARING OF THE COMMISSION;

(IV) NONPARTISAN STAFF MEMBERS SHALL USE THEIR PROFESSIONAL DISCRETION AS THEY COMMUNICATE WITH OTHER LEGISLATIVE STAFF RELATED TO THE MAPPING OF POLITICAL DISTRICTS. COMMUNICATIONS TO AND FROM NONPARTISAN STAFF RELATED TO ADMINISTRATIVE AND OPERATIONAL MATTERS OF MAPPING POLITICAL DISTRICTS ARE NOT PROHIBITED. WORK PRODUCT AND COMMUNICATIONS BETWEEN NONPARTISAN STAFF SHALL BE MADE AVAILABLE WHEN THE MAP TO WHICH THE WORK PRODUCT OR COMMUNICATION RELATES IS PRESENTED TO THE COMMISSION DURING A PROPERLY NOTICED MEETING OR HEARING OF THE COMMISSION;

(V) ANY COMMISSIONER BEING FOUND TO HAVE PARTICIPATED IN COMMUNICATIONS PROHIBITED UNDER THIS SECTION SHALL BE REMOVED FROM THE COMMISSION AND REPLACED WITHIN SEVEN DAYS BY A NEW COMMISSIONER APPOINTED BY THE SAME AUTHORITY HAVING APPOINTED THE COMMISSIONER REMOVED FROM THE COMMISSION.

(VI) NONPARTISAN STAFF SHALL REPORT TO THE COMMISSION ANY ATTEMPTS TO CONDUCT ANY COMMUNICATION PROHIBITED UNDER THIS SECTION AND SHALL REPORT TO THE COMMISSION ANY ATTEMPTS TO EXERT INFLUENCE OVER THE DRAFTING OF PLANS.

(c) NONPARTISAN STAFF SHALL NOT DRAW ANY DISTRICT FOR

THE PURPOSE OF FAVORING A POLITICAL PARTY, INCUMBENT LEGISLATOR, MEMBER OF CONGRESS, OR OTHER PERSON. FOR THE PURPOSE OF ESTABLISHING FAIR AND COMPETITIVE DISTRICTS, NONPARTISAN STAFF MAY USE AND CONSIDER ELECTION PERFORMANCE DATA.

(3) (a) THE COMMISSION shall hold public hearings ~~thereon~~ ON THE PLANS in several places throughout the state, INCLUDING AT LEAST THREE HEARINGS IN EACH OF COLORADO'S CONGRESSIONAL DISTRICTS AND AT LEAST TWO HEARINGS WEST OF THE CONTINENTAL DIVIDE, within forty-five days after the date of ~~such~~ THE publication. NO LATER THAN TWENTY DAYS AFTER THE CONCLUSION OF THE LAST PUBLIC HEARING, THE NONPARTISAN STAFF SHALL SUBMIT INITIAL PLANS TO THE COMMISSION FOR ITS CONSIDERATION. THE COMMISSION SHALL VOTE ON THE PLANS NOT LESS THAN SEVEN DAYS AFTER THEIR SUBMISSION. IF THE COMMISSION VOTES ON AN INITIAL PLAN AND DOES NOT APPROVE THE PLAN, THE COMMISSION SHALL PROMPTLY PUBLISH AND PROVIDE THE NONPARTISAN STAFF WRITTEN REASONS WHY THE PLAN WAS NOT APPROVED.

(b) IF THE COMMISSION REJECTS A PLAN PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3), THE NONPARTISAN STAFF SHALL PREPARE A SECOND PLAN, ADJUSTING THE MAP ACCORDING TO THE REASONS CITED BY THE COMMISSION FOR DISAPPROVAL OF THE INITIAL PLAN. IF A SECOND PLAN IS REQUIRED UNDER THIS PARAGRAPH (b), THE PLAN SHALL BE SUBMITTED TO THE COMMISSION WITHIN TEN DAYS OF THE COMMISSION'S VOTE ON THE PREVIOUS PLAN. THE COMMISSION SHALL VOTE ON THE PLAN NOT LESS THAN SEVEN DAYS AFTER THE PLAN'S SUBMISSION. IF THE COMMISSION VOTES ON A PLAN

PURSUANT TO THIS PARAGRAPH (b) AND DOES NOT APPROVE THE PLAN, THE COMMISSION SHALL PROMPTLY PUBLISH AND PROVIDE THE NONPARTISAN STAFF WRITTEN REASONS WHY THE PLAN WAS NOT APPROVED.

(c) IF THE COMMISSION REJECTS A PLAN PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (3), THE NONPARTISAN STAFF SHALL PREPARE A THIRD PLAN, ADJUSTING THE MAP ACCORDING TO THE REASONS CITED BY THE COMMISSION FOR THE DISAPPROVAL OF THE SECOND PLAN. IF A THIRD PLAN IS REQUIRED UNDER THIS PARAGRAPH (c), THE PLAN SHALL BE SUBMITTED TO THE COMMISSION WITHIN TEN DAYS OF THE COMMISSION'S VOTE ON THE PREVIOUS PLAN. THE COMMISSION SHALL VOTE ON THE PLAN NOT LESS THAN SEVEN DAYS AFTER THE PLAN'S SUBMISSION.

(d) IF THE COMMISSION DOES NOT APPROVE A PLAN FOR SENATORIAL DISTRICTS OR REPRESENTATIVE DISTRICTS PURSUANT TO THIS PARAGRAPH (c), THE COMMISSION SHALL SUBMIT THE SECOND PLAN TO THE SUPREME COURT AS SPECIFIED IN PARAGRAPH (g) OF THIS SUBSECTION (3). IF A PLAN FOR SENATORIAL DISTRICTS OR REPRESENTATIVE DISTRICTS IS NOT DRAFTED PURSUANT TO THIS SUBSECTION (b) OR (c), THEN THE COMMISSION SHALL SUBMIT THE INITIAL PLAN TO THE SUPREME COURT AS SPECIFIED IN PARAGRAPH (g) OF THIS SUBSECTION (3).

(e) No later than OCTOBER 6 OF THAT SAME YEAR the commission shall finalize ~~its plan~~ and EACH PLAN. THE COMMISSION MAY ADJUST THE DEADLINES OF THIS SUBSECTION (3) (a) THROUGH (c) IF CONDITIONS OUTSIDE OF THE COMMISSION'S CONTROL REQUIRE SUCH AN ADJUSTMENT TO ENSURE FINALIZING EACH PLAN AS REQUIRED IN

THIS SUBSECTION (e).

(f) THE COMMISSION MAY GRANT NONPARTISAN STAFF THE ABILITY TO MAKE TECHNICAL, DE MINIMUS ADJUSTMENTS TO ANY APPROVED PLAN PRIOR TO ITS SUBMISSION TO THE COLORADO SUPREME COURT.

(g) (I) THE COMMISSION SHALL PROMPTLY submit the ~~same~~ PLANS to the Colorado supreme court for review and determination as to compliance with sections 46, ~~and~~ 47, 47.5 AND 48 of this article. Such review and determination ~~shall take~~ TAKES precedence over other matters before the court.

(II) The supreme court shall adopt rules for such proceedings and for the production and presentation of supportive evidence, INCLUDING THE RECORD MAINTAINED BY THE COMMISSION, for ~~such plan. Any~~ THE PLANS. Legal arguments or evidence concerning ~~such plan shall~~ THE PLANS MUST be submitted to the supreme court pursuant to the schedule established by the court; except that the final submission must be made no later THAN OCTOBER 20 OF THAT SAME YEAR.

(h) (I) The supreme court shall either approve the ~~plan~~ PLANS or return ~~the plan~~ ONE OR MORE PLANS and the court's reasons for disapproval to the commission. If ~~the~~ A plan is returned, THE COMMISSION SHALL PREPARE A MAP to conform to the court's requirements. THE COMMISSION MAY REQUEST THAT NONPARTISAN STAFF MAKE ADJUSTMENTS TO THE CONFORMING MAP. AN APPROVED, CONFORMING MAP SHALL BE submitted to the court within the time period specified by the court. ADOPTION OF A PLAN PURSUANT TO THIS SUBPARAGRAPH (I) REQUIRES THE AFFIRMATIVE VOTE OF AT LEAST EIGHT COMMISSIONERS.

(II) IF THE COMMISSION HAS NOT ADOPTED A PLAN FOR SENATORIAL AND REPRESENTATIVE DISTRICTS WITHIN THE TIME PERIOD SPECIFIED BY THE COURT FOR THE COMMISSION TO ACT, THE NONPARTISAN STAFF SHALL SUBMIT THE CONFORMING MAP TO THE COURT WITHIN THE TIME PERIOD SPECIFIED BY THE COURT FOR THE COMMISSION TO ACT.

(III) The supreme court shall approve ~~a plan for the redrawing of the districts of the members of the general assembly~~ EACH REDISTRICTING PLAN by a date that will allow sufficient time for ~~such plan~~ THE PLANS to be filed with the secretary of state no later than DECEMBER 15 OF THAT SAME YEAR. The court shall order that ~~such~~ EACH plan be filed with the secretary of state no later than such date. The commission shall keep a public record of all the proceedings of the commission and shall be responsible for the publication and distribution of copies of each plan.

~~(f)~~ (4) The general assembly shall appropriate sufficient funds for the compensation and payment of the expenses of the commission members and any staff employed by it. The commission shall have access to statistical information compiled by the state or its political subdivisions and necessary for its REDISTRICTING duties.

**Ballot Title Setting Board**

**Proposed Initiative 2015 2016 #107<sup>1</sup>**

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado constitution concerning redistricting in Colorado, and, in connection therewith, renaming the Colorado reapportionment commission as the Colorado redistricting commission; directing that the commission redistrict congressional districts as well as legislative districts; requiring appointment of members with equal representation from each major political party and those not affiliated with any major party; prohibiting commission members from being lobbyists or incumbent members or candidates for either the state legislature or congress; adopting existing criteria for congressional districts and adding competitiveness to the criteria for state legislative and congressional districts; requiring that only the nonpartisan staff of the commission may submit plans to the commission; and requiring that the commission's work be done in public meetings.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado constitution concerning redistricting in Colorado, and, in connection therewith, renaming the Colorado reapportionment commission as the Colorado redistricting commission; directing that the commission redistrict congressional districts as well as legislative districts; requiring appointment of members with equal representation from each major political party and those not affiliated with any major party; prohibiting commission members from being lobbyists or incumbent members or candidates for either the state legislature or congress; adopting existing criteria for congressional districts and adding competitiveness to the criteria for state legislative and congressional districts; requiring that only the nonpartisan staff of the commission may submit plans to the commission; and requiring that the commission's work be done in public meetings?

*Hearing March 16, 2016:*

*Single subject approved; staff draft amended; titles set.*

*Hearing adjourned 12:21 p.m.*

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<sup>1</sup> Unofficially captioned "Colorado Redistricting Commission" by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

RECEIVED

MAR 23 2016

S. WARD  
11:00 A.M.

BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

Colorado Secretary of State

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Donna R. Johnson, Objector

vs.

Kathleen Curry and Frank McNulty, Proponents.

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**MOTION FOR REHEARING ON INITIATIVE 2015-2016 #107**

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Donna R. Johnson, a registered elector of the State of Colorado, through legal counsel, Recht Kornfeld P.C., objects to the Title Board's title and ballot title and submission clause set for Initiative 2015-16 #107 ("Colorado Redistricting Commission").

**A. The Title Board set a title for Initiative 2015-16 #107 on March 16, 2016.**

At the hearing held in connection with this proposed initiative, the Board designated and fixed the following ballot title and submission clause:

*Shall there be an amendment to the Colorado constitution concerning redistricting in Colorado, and, in connection therewith, renaming the Colorado reapportionment commission as the Colorado redistricting commission; directing that the commission redistrict congressional districts as well as legislative districts; requiring appointment of members with equal representation from each major political party and those not affiliated with any major party; prohibiting commission members from being lobbyists or incumbent members or candidates for either the state legislature or congress; adopting existing criteria for congressional districts and adding competitiveness to the criteria for state legislative and congressional districts; requiring that only the nonpartisan staff of the commission may submit plans to the commission; and requiring that the commission's work be done in public meetings?*

**B. Initiative #107 contains multiple subjects, contrary to Colo. Const., art. V, sec. 1(5.5).**

1. Revising the duties and procedures used by the Reapportionment Commission for drawing state legislative districts, restructuring and renaming the Commission, and changing the legal standards for setting boundaries of state legislative districts, as well as requiring only legislative staff to draw and in certain circumstances only legislative staff to preliminarily approve such plans so they may be submitted to the Supreme Court.

2. Creating a new process for drawing congressional districts by withdrawing from the General Assembly its authority, assigned by the United States Constitution, to establish the state's congressional districts and providing that the congressional districting process is completed by legislative staff, an appointed commission, and the Supreme Court.
3. Changing the eligibility of persons to be candidates for or members of the State House of Representatives and the State Senate, as well as limiting the rights of such persons, by prohibiting them from serving on a commission that sets congressional districts.
4. Changing the eligibility of persons to be candidates for or members of the U.S. House of Representatives, as well as limiting the rights of such persons, by prohibiting them from serving on a commission that sets State Senate and State House of Representatives districts.
5. Changing the eligibility of persons to be candidates for or members of the U.S. Senate, as well as limiting the rights of such persons, by prohibiting them from serving on a commission that sets State Senate and State House of Representatives districts as well as congressional districts.
6. Changing the eligibility of persons to be registered lobbyists, as well as limiting the rights of such persons, by prohibiting them from serving on the commission that sets congressional and legislative districts.
7. Limiting the state's required compliance with the federal Voting Rights Act for congressional redistricting to Section 2 of the Act.

**C. The title set for #107 is misleading and prejudicial, contrary to C.R.S. § 1-40-106.**

1. The title substantially and substantively overlaps with the title set for Initiative #38 and will be misleading and confusing both to potential petition signers and to voters.
2. The single subject statement omits the fact that this measure deals with reapportionment as well as redistricting.
3. The title's reference to members or candidates for "congress" as persons excluded from commission membership is misleading, because the repeated references to "congressional districts" suggests this limitation applies only to the U.S. House of Representatives.
4. The title should clearly state that every commission appointment is made by the legislative leadership in the General Assembly.
5. The title's reference that there is "equal representation" between major political parties and those not affiliated with a major political party is misleading and incorrect.

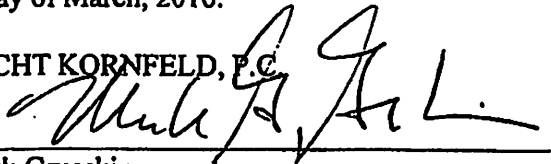


6. The title fails to state that 4 appointments are made by state legislators who are members of "the state's two largest parties."
7. The title fails to state that 8 legislative leadership appointees must be "members of his or her own party," referring to political parties of each of the appointing authorities.
8. The title's reference to "nonpartisan staff of the commission" is misleading about the actual employer of staff, given that all staff members are legislative branch employees rather than commission employees and thus work for the General Assembly including the appointing authorities for all commission positions.
9. The title's reference to "commission's work" is vague and without a clear meaning.
10. The title's reference to "competitiveness" is misleading because it fails to inform voters that the commission must consider, on at least an equal footing, "minimization of disruption of prior district lines."
11. The reference to "existing criteria for congressional districts" is misleading as the only "existing" criteria in statute related to redistricting by a court, not the primary body that is now charged with redistricting responsibility – the General Assembly – for which no specific criteria exist that could be "adopt[ed]."
12. The title omits an informative reference to criteria for state legislative district setting.
13. The title fails to state that the commission may only act on any issue, other than suggesting amendments to staff maps, with at least 8 commissioners voting in support.
14. The title fails to state that the initiative text grants to the commission the sole power to determine the process for removing commission members, appointed by other parties, for cause.

WHEREFORE, the titles set March 16, 2016 should be reversed, due to the single subject violations addressed herein, or modified to account for the legal insufficiencies highlighted in this Motion for Rehearing.

RESPECTFULLY SUBMITTED this 23th day of March, 2016.

RECHT KORNFELD, P.C.



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Phone: 303-573-1900  
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Objector's Address:

Donna R. Johnson  
9280 Yarrow Street, #4207  
Westminster CO 80021

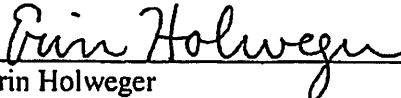
### CERTIFICATE OF SERVICE

I hereby affirm that a true and accurate copy of the MOTION FOR REHEARING ON INITIATIVE 2015-2016 #107 was sent this day, March 23, 2016 via first class U.S. mail, postage pre-paid to the proponents and their counsel at:

Kathleen Curry  
54542 U.S. Highway 50  
Gunnison, CO

Frank McNulty  
9272 Rockport Lane  
Highlands Ranch, CO 80126

Frank McNulty, Esq.  
[frank@frankmcnulty.com](mailto:frank@frankmcnulty.com)

  
Erin Holweger

RECEIVED S.WARD  
MAR 23 2016 3:55 P.M.

COLORADO TITLE SETTING BOARD

Colorado Secretary of State

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IN THE MATTER OF THE TITLE AND BALLOT AND SUBMISSION CLAUSE FOR INITIATIVE  
2015-2016 #107

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**MOTION FOR REHEARING**

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Jason Legg and Luis A. Corchado, registered electors of the state of Colorado, object to the Title Board's ballot title and submission clause for Initiative 2015-2016 #107, and request a rehearing pursuant to C.R.S. 1-40-107.

**1. The Title Board Set a title for Initiative 2015-2016 #107 on March 16, 2016.**

At the hearing held in connection with this proposed initiative, the Board designated and fixed the following title:

An amendment to the Colorado constitution concerning redistricting in Colorado, and, in connection therewith, renaming the Colorado reapportionment commission as the Colorado redistricting commission; directing that the commission redistrict congressional districts as well as legislative districts; requiring appointment of members with equal representation from each major political party and those not affiliated with any major party; prohibiting commission members from being lobbyists or incumbent members or candidates for either the state legislature or congress; adopting existing criteria for congressional districts and adding competitiveness to the criteria for state legislative and congressional districts; requiring that only the nonpartisan staff of the commission may submit plans to the commission; and requiring that the commission's work be done in public meetings.

**2. The Title Board's title setting violates the single subject requirement of Colorado Const. Article V, Section 1(5.5).**

**A. The Title Board's title setting violates the single subject requirement of Colorado Const. Article V, Section 1(5.5) because it includes the subjects of fundamentally revamping the existing Reapportionment Commission and establishing a congressional redistricting commission.**

Colorado citizens amended the Colorado Constitution to ensure that citizens' initiatives contain only one subject when presented to the citizens for a vote. Specifically, Colorado Const. Article V, Section 1(5.5) provides, in relevant part that:

No measure shall be proposed by petition containing more than one subject, which shall be clearly expressed in its title; but if any subject shall be embraced in any measure which shall not be expressed in the title, such measure shall be void only as to so much thereof as shall not be so expressed. If a measure contains more than one subject, such that a ballot title cannot be fixed that clearly expresses a single subject, no title shall be set and the measure shall not be submitted to the people for adoption or rejection at the

polls. In such circumstance, however, the measure may be revised and resubmitted for the fixing of a proper title without the necessity of review and comment on the revised measure in accordance with subsection (5) of this section, unless the revisions involve more than the elimination of provisions to achieve a single subject, or unless the official or officials responsible for the fixing of a title determine that the revisions are so substantial that such review and comment is in the public interest. The revision and resubmission of a measure in accordance with this subsection (5.5) shall not operate to alter or extend any filing deadline applicable to the measure.

The implementing statutes require that the “single subject” requirement be “liberally construed, so as to avert the practices against which they are aimed” balanced against the goal of “preserving and protecting the right of initiative and referendum.” C.R.S. 1-40-106.5(2). The “practices” that the single subject requirement protects against include (1) combining independent or “incongruous” purposes, and (2) surprising, defrauding, or misleading the voter into saying “yes” to an appealing purpose while tricking them into saying “yes” to a purpose that would not have passed on its own merits. C.R.S. 1-40-106.5(1)(e)(2015). *In re Proposed Initiative 1996-4*, 916 P.2d 528 (Colo. 1996).

The Colorado Supreme Court has provided additional criteria too for deciphering whether an initiative has a single subject. It has held that provisions include two different subjects when they are not dependent upon or necessarily and properly connected with each other. *In the Matter of the Title, Ballot Title, and Submission Clause for 2013–2014 #76*, 333 P. 3d 76 (Colo. 2014). A general or broad “label” describing the subjects will not save independent subjects. See, e.g., *In re Amend TABOR 25*, 900 P.2d 121, 125-126 (Colo. 1995)(the broad theme of “revenue changes” failed to convert disparate subjects into a single subject).

The Colorado Supreme Court’s decision regarding 2014 Initiative #76 establishes that Initiative #107 has at least two independent subjects and thereby violates the single subject requirement. *In the Matter of the Title, Ballot Title, and Submission Clause For 2013-2014 #76*, 333 P.3d 76, 78 (2014). The Court held that Initiative #76 was unconstitutional as it addressed at least two different subjects: (1) revamping an existing recall process for elected officials and (2) establishing a new recall process for non-elected state and local officers. It began its analysis by first noting the important point that Article XXI, the targeted provision of Initiative #76, only applied to elected officials. *Id.* at 79-81. Consequently, the “process changes” in Initiative #76 for recall elections necessarily affected the existing recall process for elected officials. The Court recognized that some voters might favor altering the recall process but not favor establishing a new constitutional right to recall non-elected officers, or vice-versa. It held that this effort to “roll” two subjects into one Initiative “to attract the votes of various factions” constituted the type of surreptitious practice that the single subject requirement seeks to proscribe. *Id.* at 84. See also *In Re Proposed Initiative for 2005-2006 #55*, 138 P. 3d 273, 282 (Colo. 2006). The “process changes” to the recall of elected officials was “not dependent” or “necessarily” connected to the “substantive” changes of adding non-elected officials to the recall process. *Id.* at 86. Nor could the proponents of Initiative #76 merge these two subjects “with a single all-encompassing umbrella phrase (‘concerning the recall of government officers’)...” *Id.* at 86.

Initiative #107 in this case suffers from essentially the same infirmity found in the 2014 Initiative #76 that the Court struck down as an unconstitutional initiative. Just like the 2014 Initiative #76, the 2015 Initiative #107 advances the two purposes of “revamping” an existing process and establishing a new process. Also like the 2014 Initiative #76, Initiative #107 combines “process changes” to an existing

process for state legislative districts with the “substantive” change of creating an entirely new redistricting responsibility. More specifically, Initiative #107 seeks to 1) fundamentally revamp the forty-year old Colorado Reapportionment Commission and 2) establish a new process for the independent federal redistricting process. Looking at the initiative’s details on each of these subjects drives home the analogy to *In the Matter of the Title, Ballot Title, and Submission Clause For 2013-2014* #76.

First, Initiative #107 fundamentally revamps (and necessarily renames) the existing Reapportionment Commission that currently redistricts only state legislative districts. The Colorado Supreme Court has previously recognized the creation of the Reapportionment Commission as a “major change” the voters approved in 1974 with a deliberate design. The 1974 amendment to state legislative redistricting sought “to reduce the impact that partisan politics can have on the drawing of legislative district boundaries, through the placement of the commission outside the legislative branch and through the requirements for appointment of commission members *by all three branches of state government.*” *In re Colorado General Assembly*, 828 P.2d 185, 211 (Colo. 1992)(emphasis added). The “major motivation” to the 1974 Amendment was “the General Assembly’s reapportionment track record, which was prone ‘to endless battles over redistricting and to enmity among state lawmakers.’” *Id.* Since its inception in 1974, the Reapportionment Commission has consistently succeeded in adopting a reapportionment plan after the 1980, 1990, 2000 and 2010 censuses. In contrast, the General Assembly has failed after those four censuses to redistrict the federal congressional districts before one or more parties filed a lawsuit seeking court intervention to create a new federal congressional redistricting plan.

The process changes in Initiative #107 seek to undo the Reapportionment Commission’s 40-year successful track record. One process change is to remove the appointment powers from the executive branch and the apolitical judicial branch of Colorado government (Section 48(1)(a) and (b)) and give all that appointment power to the General Assembly, undoing the deliberate goal of the 1974 Amendment of involving all three branches of government in the appointment process. Under the existing Reapportionment Commission process, all three branches of government were free to choose a commission member belonging to any party or no party within the overall limitations on the ultimate makeup of the Reapportionment Commission. In fact, in 2001, a Democratic Governor appointed a Republican commissioner as one of his three appointments.

Under Initiative #107, the leadership of the General Assembly (i.e., the two major parties) will appoint the first eight commission members from their “own party so that no more than four members may be registered with the same party.” See Section 48(1)(b). Initiative #107 also seeks to change the Commission membership from an odd number to an even number (Section 48(1)(a)), allowing for the possibility of a tied vote that cannot occur under the current process. In another process change, the last four commission seats will be chosen equally by the highest ranking members of the state’s two largest political parties, resulting in an even and exclusive distribution of the appointment power between the two major parties. See Section 48(1)(c)(I). The change in commission membership to an even number coupled with the even distribution of appointment power between the two major parties effectively returns the reapportionment commission to the General Assembly and unwinds the fundamental goal of the 1974 Amendment to take the reapportionment process out of the General Assembly’s hands. Unaffiliated voters no longer will have the ability to appeal to an apolitical government body to be appointed to the Reapportionment Commission but will have to seek permission from the two major parties. In effect, truly unaffiliated voters will never be appointed because neither party can count on his or her vote during the redistricting process.

The point here is not to focus on policy arguments but to demonstrate that Initiative #107's changes to the appointment process for the reapportionment commission are fundamental and clearly constitute one distinct purpose of Initiative #107. More specifically, that subject is to convert a functional Reapportionment Commission into a General Assembly stand-in that will break down just as it has broken down in the federal redistricting process for many consecutive decades. It is easy to see that many, if not most, voters might oppose this part of the Initiative if it was properly presented as a single subject in its own Initiative.

Secondly, Initiative #107 establishes a new process for the redistricting of congressional districts. Currently, the federal redistricting process is completely independent of the state legislative reapportionment process and has been for decades. It is carried out by the general assembly and governor through the legislative process, not the existing reapportionment commission. Moreover, its genesis flows directly from the federal constitution (U.S. Const., Art I, section 4) and, secondarily, the state constitution. Initiative #107 would reassign this responsibility to the revamped Colorado Reapportionment Commission and change the criteria guiding congressional redistricting. The federal redistricting process has been an ad hoc process governed by the whim of the two major parties in the General Assembly. It need not consider the interests of unaffiliated voters and communities of interest (e.g., Latino communities), and it continues the "endless battles" that sparked the 1974 Amendments. This is exactly the same type of expansion of authority that was found to constitute a second subject in *In the Matter of the Title, Ballot Title, and Submission Clause For 2013-2014* #76. Stated more poignantly, fixing the broken ad hoc federal redistricting process is a completely separate subject from breaking the existing and functional Reapportionment Commission. And again, many voters might vote for this proposal related to federal redistricting but might not approve of fundamentally changing the existing Reapportionment Commission.

Further, these two subjects are not necessarily dependent upon one another. There is no reason the first subject of altering the existing Reapportionment Commission cannot be addressed separately from establishing a new process for congressional redistricting. The single subject requirement of article V, section 1(5.5), of the Colorado Constitution prohibits such attempts to roll together these multiple subjects in order to attract the votes of various factions that might favor one of the subjects and otherwise oppose the other. See *In re Proposed Initiative for 2005–2006* # 74, 136 P.3d 237, 242 (Colo.2006). For this reason, Initiative #107 fails to satisfy the single -subject requirement delineated in Section 1 (5.5) of Article V of the Colorado Constitution.

**B. The Title Board's title setting violates the single subject requirement of Colorado Const. Article V, Section 1(5.5) because it includes the subject of directing that redistricting be carried out in a manner devoid of partisan considerations while deceptively mandating exactly that.**

C.R.S. Section 1-40-106.5(3) reads:

It is further the intent of the general assembly that, in setting titles pursuant to section 1 (5.5) of article V, the initiative title setting review board created in section 1-40-106 should apply judicial decisions construing the constitutional single-subject requirement for bills and should follow the same rules employed by the general assembly in considering titles for bills.

This instructs the title review board to consider both judicial decisions construing the constitutional single-subject requirement for bills and the same rules employed by the general assembly in considering titles for bills. The general assembly expands on their intent in C.R.S. Section 1-40-106.5(1)(e). That subsection provides:

The practices intended by the general assembly to be inhibited by section 1 (5.5) of article V and section 2 (3) of article XIX are as follows:

- (I) To forbid the treatment of incongruous subjects in the same measure, especially the practice of putting together in one measure subjects having no necessary or proper connection, for the purpose of enlisting in support of the measure the advocates of each measure, and thus securing the enactment of measures that could not be carried upon their merits;
- (II) To prevent surreptitious measures and apprise the people of the subject of each measure by the title, that is, to prevent surprise and fraud from being practiced upon voters.

The court has read these subsections to demonstrate that the General Assembly intended "[t]o forbid the treatment of incongruous subjects in the same measure" and *prevent voter fraud and surprise*. *In re Proposed Initiative 1996-4*, 916 P.2d 528 (Colo. 1996) (emphasis added). This was illustrated in *In the Matter of the Title, Ballot Title, and Submission Clause for 2007-2008 #61*, 184 P.3d 747 (2008). In that case, the Court began its single-subject analysis by noting:

The single subject requirement is intended to prevent two practices by initiative proponents. First, it serves to ensure that each initiative depends upon its own merits for passage. Second, the single subject requirement is intended to "prevent surreptitious measures . . . [so as] to prevent surprise and fraud from being practiced upon voters. (internal citations and quotations omitted)

It then proceeded to evaluate an initiative on the first criteria. It ruled that "...the Initiative "effects one general purpose" and thus contains a single subject". Next, the Court evaluated whether or not the initiative constituted a deceptive or surreptitious measure. That question centered around the Board's ruling that "Initiative # 61 violates the single subject requirement because the first sentence of the Initiative prohibits discrimination and preferential treatment while the second sentence allows such action to the extent permitted by the United States Constitution." The Board was troubled by the internal contradictions within the initiative, and ruled that they would operate to mislead voters. *Id.* at 750.

The court did not reject the Board's secondary single subject analysis regarding deception. It embraced it. Ultimately, it found that initiative was not misleading because the contradictory provision is inherently applicable to all state statutes regardless of whether or not it was included in the measure. The court wrote, "Therefore, we reject the argument that a measure is deceptive merely because its content depends on the United States Constitution, as interpreted by the United States Supreme Court." *Id.* at 751.

Conducting a single subject analysis in the same manner, the court struck down an initiative in *Matter of Ballot Title for 1997-98 #84*, 961 P.2d 456, 458 (Colo. 1998). There, the court was troubled by the proposition that an initiative purporting to cut taxes would simultaneously mandate the elimination of state programs. In finding that such an initiative violates the single subject requirement, the court wrote, "Voters would be surprised to learn that by voting for local tax cuts, they also had required the reduction, and possible eventual elimination, of state programs." *Id.* at 460-61.

The same analysis in the instant case demonstrates that Initiative 2015-2016 #107 is a deceptive measure that will practice surprise and fraud upon voters by overtly pursuing one subject while impermissibly including a surreptitious provision “coiled in its folds” in violation of the single subject requirement. See *In re Proposed Initiative 2001-02 No. 43,46* P.3d 438, 442 (Colo. 2002).

To begin, its provisions are deceptively contradictory. Section 43.5 of Initiative 2015-2016 #107 states in part:

The People of the state of Colorado find and declare that fair representation requires that the practice of political gerrymandering, *whereby congressional, and senatorial districts and representative districts of the general assembly are purposefully drawn to favor one political party or incumbent over another or to accomplish political goals, must end.* (emphasis added)

Giving that declaration teeth, Section 48(2)(c) provides:

Nonpartisan staff *shall not draw any plan for the purpose of favoring a political party, incumbent legislator, member of congress, or other person.* For the purpose of establishing fair and competitive districts, nonpartisan staff may use and consider election performance data. (emphasis mine)

This language clearly tells voters that the initiative intends to prevent the drawing of congressional, and senatorial and representative districts for the purpose of benefitting one political party, incumbent legislator, member of congress, or other person.

However, Section 47(4) of the Initiative provides:

After following subsections 1, 2, and 3 of this section, and section 46 of this article, nonpartisan staff shall maximize the number of fair and *competitive* senatorial districts and representative districts. (emphasis mine)

Similarly, Section 47.5(1)(c) reads:

Shall, after adhering to the provisions of this subsection (a) and considering the provisions of this subsection (b), maximize the number of fair and *competitive* congressional districts. (emphasis added)

The plain language of these subsections clearly directs the nonpartisan staff and commission to draw congressional, and senatorial and representative districts for the purpose of benefitting a political party, incumbent legislator, member of congress, or other person. While a laudable goal, making a district more competitive inherently requires improving the chances of victory of the less likely to prevail political party, incumbent legislator, member of congress, or other person.

The language of Section 43.5 and Section 48(2)(c) are thus inconsistent with the direction provided in Sections 47(4) and 47.5(1)(c). They work to mislead voters about the operation of the initiative. The former sections will lead a voter to believe that the initiative proscribes the drawing of districts to favor or disfavor a political party, incumbent legislator, member of congress, or other person. The latter provisions of the initiative, however, provide for exactly that. This is exactly the type of surprise subject the court disallowed in *Matter of Ballot Title for 1997-98 #84*. Accordingly, the provisions of the Initiative #107 that direct redistricting sans partisanship and the provisions of Initiative #107 that direct redistricting with specific partisan objectives constitute separate subjects.



Moreover, and unlike *In the Matter of the Title, Ballot Title, and Submission Clause for 2007-2008 #61*, this internal deception is solely the product of the initiative itself. There is no existing, controlling law that governs partisan considerations in redistricting. The Initiative is not on the one hand proscribing partisan considerations and on the other hand acknowledging that senior law may mandate partisan considerations. Rather, it represents that it eliminates partisan redistricting and then, with its own breath, commands exactly that.

Accordingly, Initiative 2015-2015 #107 must be found to violate the single subject requirement.

**3. The titles are misleading, confusing, and prejudicial.**

The title and submission clause of a ballot measure should enable the electorate, whether familiar or unfamiliar with the subject matter of a particular proposal, to determine intelligently whether to support or oppose such a proposal. *In re Title, Ballot & Submission Clause for 2009-2010 No. 45*, 234 P. 3d 642, 648 (Colo. 2010). The subject title and submission clause fails to do so.

**A. Describing the commission as “renamed” and simply “directing” the appointment method is misleading and fails to identify the independent purpose of fundamentally altering the Reapportionment Commission.**

Describing the commission as simply “renamed” rather than with words like “replacing” and/or “changing” the existing Reapportionment Commission impermissibly misleads voters and hides the independent purpose of altering the Reapportionment Commission that has achieved its mission of creating a new state legislative redistricting plan after each census. On this point, the Title Board actually deleted the word “changing” that was included in the original proposed title and submission clause. The title and submission clause set by the Title Board gives the false impression that the Reapportionment Commission has not otherwise been changed and disguises the independent purpose of fundamentally changing the Reapportionment Commission thereby (1) preventing the voters from detecting the changes and (2) appealing to many voters’ desire to fix the federal redistricting process (without breaking a functional system).

The single subject requirements in the Colorado Constitution and implementing statutes require that voters be informed in the title and submission question that Initiative #107 transfers the Governor’s and Judiciary branches’ appointment powers to the General Assembly (Section 48(1)(a)). The voters must be informed that Initiative #107 changes the Commission membership from an odd number to an even number (Section 48(1)(a)) to allow for the possibility of a stalemate by an even vote. They must be informed that the leadership of the two major parties will appoint all the commissioners, the first eight commission members from their “own party” and the last four following an application process. See Section 48(1)(b-c). The voters must be informed that Initiative #107 unwinds the fundamental goal of the 1974 Amendment to take the reapportionment process out of the General Assembly’s hands. The title and submission clause do not inform the voters that unaffiliated voters no longer will have the ability to appeal to an apolitical government body to be appointed to the Reapportionment Commission but will have to garner permission from the two major parties. It must be clear that one subject in Initiative #107 is to change a functional Reapportionment Commission to General Assembly stand-in that decades of history proves will most likely break down.

Given the scope of the fundamental alterations to the commission, the only accurate way to characterize the Initiative’s treatment of the existing reapportionment commission is to describe it as being repealed and replaced by the redistricting commission that places all of the appointment power into one branch of government: the General Assembly that is “prone to endless battles” decade after decade.

**B. The description “not affiliated” is misleading.**

The title reads in part, “...requiring appointment of members with equal representation from each major political party and those not affiliated with any major party.” While lawmakers may understand the term “affiliated” in a manner that is consistent with the actual provisions of Initiative #107, the electorate likely will not. Initiative #107 provides that four members of the commission may not have been affiliated with the same political party or member already on the commission. It later adds that these four members must be registered with minor parties or unaffiliated. Presumably, this is why the title characterizes them as “not affiliated”.

However, it is unlikely that the electorate would characterize them as such. Merriam-Webster defines the term affiliated as “closely associated with another, typically in a dependent or subordinate position”. <http://www.merriam-webster.com/dictionary/affiliated>. A person hired by another is dependent upon that person, and certainly closely associated therewith. The initiative provides that these four members are selected by the highest ranking members of the state’s two largest political parties. See Section 48(1)(c)(l). These positions are paid and carry a great deal of power. It is extremely doubtful that the average voter would characterize a commission member as not affiliated with a political party when the political party in fact selects the commission member for this paid, powerful position.

**C. The omission of the term “fair” is misleading.**

The title reads in part, “adding competitiveness to the criteria for state legislative and congressional districts”. Eliminating a key feature of the initiative from the titles is a fatal defect if that omission may cause confusion and mislead voters about what the initiative actually proposes. See *In re Ballot Title 1997-98 # 62*, 961 P.2d 1077, 1082 (Colo. 1988). Initiative #107 actually adds both fairness and competitiveness to the criteria. The omission of fairness is misleading.

This may seem immaterial, but it is not. On its face, the requirement that districts be fair seems beyond reproach. This could lead to the conclusion that its omission is inconsequential. However, the term “fair” is highly subjective. It lends itself to being construed and applied as defined by the individual commission members as they define it. This could result in the commission members having substantial discretion in redistricting. Voters should be given the opportunity to reach that, and other conclusions, by being put on notice of its inclusion in the initiative.

WHEREFORE, the title set on March 16, 2016 should be stricken altogether.

RESPECTFULLY SUBMITTED this 23<sup>rd</sup> day of March, 2016.

Jason Legg  
Jason M. Legg

Jason Legg  
Luis A. Corchado, by JML

**CERTIFICATE OF SERVICE**

I hereby affirm that a true and accurate copy of the MOTION FOR REHEARING ON INITIATIVE 2015-2016 #107 was sent on this day, March 23, 2016 via first class U.S. mail, postage pre-paid to the proponents at:

Kathleen Curry  
54542 U.S. Highway 50  
Gunnison, CO

Frank McNulty  
9272 Rockport Lane  
Highlands Ranch, CO 80126

Jason Legg

COLORADO TITLE SETTING BOARD

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IN THE MATTER OF THE TITLE, BALLOT TITLE, AND SUBMISSION CLAUSE FOR  
INITIATIVE 2015-2016 #107

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**PROPONENTS' RESPONSE IN OPPOSITION TO MOTIONS FOR REHEARING**

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Kathleen Curry and Frank McNulty, registered electors of the State of Colorado and the proponents of Initiative 2015-2016 #107 ("Initiative #107"), through counsel Ireland Stapleton Pryor & Pascoe, PC, hereby respond in opposition to the Motions for Rehearing filed by Donna R. Johnson and Jason Legg and Luis A. Corchado ("Movants").

The Title Board should reject Movants' objections in the Motions for Rehearing and affirm the title setting because (1) Initiative #107 has a single subject and (2) its title is clear and not misleading. Notably, in addressing both of these issues, it is improper for the Title Board to consider the merits of the proposed initiative or to review its "efficacy, construction, or future application." *In re Title, Ballot Title, and Submission Clause for 2013-2014 #89*, 328 P.3d 172, 176 (Colo. 2014) ("*In re #89*").

**1. The Title Board's Title Setting for Initiative #107 Comports with the Single Subject Requirement of Article V, Section 1(5.5) of the Colorado Constitution.**

A proposed initiative comports with the single subject requirement of Article V, section 1(5.5) of the Colorado Constitution "if the initiative tends to effect or to carry out one general object or purpose." *In re #89*, 328 P.3d at 177. "An initiative meets this requirement as long as the subject matter of the initiative is necessarily or properly connected. Stated differently, so long as an initiative encompasses related matters it does not violate the single subject requirement." *Id.* (internal citations and quotations omitted) (emphasis in original).

Here, as reflected in its title, ballot title, and submission clause (collectively, the "Title"), the single subject of Initiative #107 is redistricting in Colorado. More specifically, Initiative #107 renames the Colorado reapportionment commission as the Colorado redistricting commission and sets forth its authority and criteria for redistricting congressional and legislative districts. This subject is not an overly broad or overreaching category, and all of the subsections of Initiative #107 are connected to its single subject of redistricting in Colorado. *See In re #89*, 328 P.3d at 177. Consequently, Colorado voters will not be surprised by any of the provisions of Initiative #107. *See id.* In fact, because Initiative #107 contemplates redistricting by a single commission, it would be illogical and confusing to parse out its subsections into two separate initiatives.

Movants primarily take issue with the substance of Initiative #107, including the appointment process and redistricting criteria set forth therein, but these considerations are irrelevant to the Title Board's single subject inquiry. *In re #89*, 328 P.3d at 176. Additionally, Movants incorrectly rely on *In re Title, Ballot Title, and Submission Clause for 2013-2014 #76*,

333 P.3d 76 (Colo. 2014) ("*In re #76*") to argue that Initiative #107 contains more than one subject. There, the court held that the proposed initiative contained more than one subject because it established a previously nonexistent constitutional right to recall non-elected public officers, in addition to elected officers. *Id.* at 79. Movants analogize the right to recall non-elected public officers to the redistricting of congressional elections in Initiative #107. This analogy is misguided because the redistricting of congressional districts is not a new process but rather has long-been addressed and required by the Colorado Constitution. Colo. Const. art. V, § 44. Consequently, *In re #76* is inapposite.

Accordingly, the Title Board should affirm the Title setting for Initiative #107 because it has a single subject.

## **2. The Title Is Not Misleading or Prejudicial.**

An initiative title must "consist of a brief statement accurately reflecting the central features of a proposed measure." *In re Initiative on "Trespass-Streams with Flowing Water"*, 910 P.2d 21, 24 (Colo. 1996). Consequently, the Title Board should "set fair, clear and accurate titles that do not mislead the voters through a material omission or representation." *In re Initiative #89*, 328 P.3d at 178 (quoting *In re Title, Ballot Title, Submission Clause, & Summary for 1999-2000 No. 256*, 12 P.3d 246, 256 (Colo. 2000)). However, an initiative title does not need to contain every detail of the proposal and should not speculate as to the effects of enacting the initiative. *Id.*

Here, the Title for Initiative #107 is clear and will not mislead the voters. The Title sets forth the initiative's single subject purpose and then addresses the central features of the initiative, including, but not limited to, renaming the Colorado reapportionment commission as the Colorado redistricting commission; directing that the commission redistrict congressional districts as well as legislative districts; requiring appointment of members with equal representation from each major political party and those not affiliated with any major party; requiring that only the nonpartisan staff of the commission may submit plans to the commission; and requiring that the commission's work be done in public meetings.

Movants contend that the Title Board should add a laundry list of descriptions to the Title, but doing so would violate the requirement that initiative titles be brief. It is also unnecessary because initiative titles do not need to contain every detail of the proposal. *In re Initiative #89*, 328 P.3d at 178. The additional descriptions proposed by Movants are also not descriptions at all, but rather Movants' biased assessment of the purported impacts of Initiative #107 if enacted. Adding these purported "descriptions" would be improper because "the Title Board may not speculate on the potential effects of the initiative if enacted." *Id.*

Accordingly, the Title Board should affirm the Title setting for Initiative #107 because the Title is clear and not misleading.

WHEREFORE, Kathleen Curry and Frank McNulty respectfully request that the Title Board reject Movants' objections in the Motions for Rehearing and affirm the Title setting for Initiative #107.

Dated: April 5, 2016

Respectfully submitted,

s/ Kelley B. Duke

Kelley B. Duke

Benjamin J. Larson

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***Attorneys for Proponents Kathleen Curry and  
Frank McNulty***

**CERTIFICATE OF SERVICE**

I hereby affirm that a true and accurate copy of the foregoing **PROPOSERS'**  
**RESPONSE IN OPPOSITION TO MOTIONS FOR REHEARING** was sent this 5<sup>th</sup> day of  
April, 2016, via first class U.S. mail, postage pre-paid or email to Movants at:

Donna R. Johnson  
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*Benjamin J. Larson*  
Benjamin J. Larson

**Ballot Title Setting Board**

**Proposed Initiative 2015 2016 #107<sup>1</sup>**

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado constitution concerning redistricting in Colorado, and, in connection therewith, renaming the Colorado reapportionment commission as the Colorado redistricting commission; directing that the commission redistrict congressional districts as well as legislative districts; requiring appointment of 12 members with no more than four members from the same political party and at least four members not affiliated with any major party; prohibiting commission members from being lobbyists or incumbent members or candidates for either the state legislature or congress; adopting existing criteria for congressional districts and adding competitiveness to the criteria for state legislative and congressional districts; requiring that only the nonpartisan staff of the commission may submit plans to the commission; and requiring that the commission's work be done in public meetings.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado constitution concerning redistricting in Colorado, and, in connection therewith, renaming the Colorado reapportionment commission as the Colorado redistricting commission; directing that the commission redistrict congressional districts as well as legislative districts; requiring appointment of 12 members with no more than four members from the same political party and at least four members not affiliated with any major party; prohibiting commission members from being lobbyists or incumbent members or candidates for either the state legislature or congress; adopting existing criteria for congressional districts and adding competitiveness to the criteria for state legislative and congressional districts; requiring that only the nonpartisan staff of the commission may submit plans to the commission; and requiring that the commission's work be done in public meetings?

*Hearing March 16, 2016:*

*Single subject approved; staff draft amended; titles set.*

*Hearing adjourned 12:21 p.m.*

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<sup>1</sup> Unofficially captioned "Colorado Redistricting Commission" by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.



*Rehearing April 6, 2016:*

*Motion for Rehearing denied except to the extent that the Board made changes to the titles.*

*Hearing adjourned 10:47 a.m.*



DATE FILED: April 13, 2016 9:06 PM

# STATE OF COLORADO

DEPARTMENT OF  
STATE

## CERTIFICATE

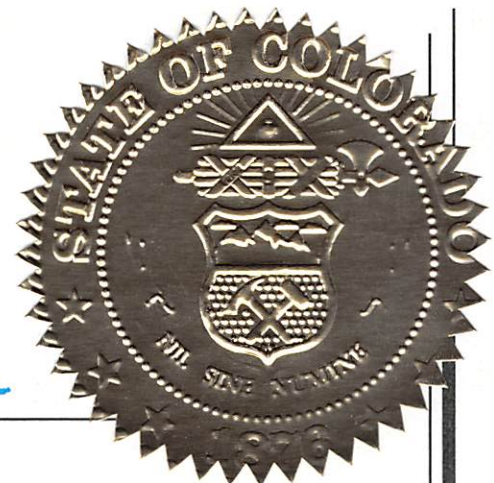
I, **WAYNE W. WILLIAMS**, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the filed text, motion for rehearing, proponents' response to the motion for rehearing, and the rulings thereon of the Title Board for Proposed Initiative "2015-2016 #107 'Colorado Redistricting Commission'".....

.....

**IN TESTIMONY WHEREOF** I have unto set my hand .....  
and affixed the Great Seal of the State of Colorado, at the  
City of Denver this 8<sup>th</sup> day of April, 2016.

*Wayne W. Williams*  
\_\_\_\_\_  
SECRETARY OF STATE



RECEIVED

MAR 04 2016

S. WARD  
2:48 P.M.

2015-2016 #107 - Final

Colorado Secretary of State

*Be it Enacted by the People of the State of Colorado:*

SECTION 1. In the constitution of the state of Colorado, add section 43.5 to article V as follows:

*Congressional and Legislative Appointments*

**SECTION 43.5. POLITICAL GERRYMANDERING PROHIBITED.**

THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT FAIR REPRESENTATION REQUIRES THAT THE PRACTICE OF POLITICAL GERRYMANDERING, WHEREBY CONGRESSIONAL, AND SENATORIAL DISTRICTS AND REPRESENTATIVE DISTRICTS OF THE GENERAL ASSEMBLY ARE PURPOSEFULLY DRAWN TO FAVOR ONE POLITICAL PARTY OR INCUMBENT POLITICIAN OVER ANOTHER OR TO ACCOMPLISH POLITICAL GOALS, MUST END. THE PUBLIC'S INTERESTS IN PROHIBITING POLITICAL GERRYMANDERING AND IN MAPPING FAIR AND COMPETITIVE CONGRESSIONAL, AND SENATORIAL DISTRICTS AND REPRESENTATIVE DISTRICTS OF THE GENERAL ASSEMBLY IS BEST ACCOMPLISHED BY AN INDEPENDENT COMMISSION OF BALANCED APPOINTMENTS THAT IS FREE FROM POLITICAL INFLUENCE AND THAT THIS SAME INDEPENDENT COMMISSION RELY ON NONPARTISAN LEGISLATIVE STAFF TO DIVIDE THE STATE INTO THESE DISTRICTS WITHOUT REGARD TO POLITICAL PRESSURES OR POLITICAL CONSIDERATIONS.

SECTION 2. In the constitution of the state of Colorado, amend section 44 of article V as follows:

**Section 44. Representatives in congress.** The ~~general assembly~~ COLORADO REDISTRICTING COMMISSION shall divide the state into as many congressional districts as there are representatives in

congress apportioned to this state by the congress of the United States for the election of one representative to congress from each district. When a new apportionment ~~shall be~~ IS made by congress, the ~~general assembly~~ COLORADO REDISTRICTING COMMISSION shall divide the state into congressional districts accordingly.

SECTION 3. In the constitution of the state of Colorado, **amend** section 47 of article V as follows:

**Section 47. ~~Composition of districts~~ CRITERIA - STATE SENATORIAL DISTRICTS AND REPRESENTATIVE DISTRICTS.**

(1) Each district shall be as compact in area as possible and the aggregate linear distance of all district boundaries shall be as short as possible. ~~Each district shall consist of contiguous whole general election precincts.~~ Districts of the same house shall BE CONTIGUOUS AND SHALL not overlap.

(2) Except when necessary to meet the equal population requirements of section 46, no part of one county shall be added to all or part of another county in forming districts. Within counties whose territory is contained in more than one district of the same house, the number of cities and towns whose territory is contained in more than one district of the same house shall be as small as possible. When county, city, or town boundaries are changed, adjustments, if any, in legislative districts shall be as prescribed by law.

(3) Consistent with the provisions of this section and section 46 of this article, communities of interest, including ethnic, cultural, economic, trade area, geographic, and demographic factors, shall be preserved within a single district wherever possible.

(4) AFTER FOLLOWING SUBSECTIONS 1, 2, AND 3 OF THIS SECTION, AND SECTION 46 OF THIS ARTICLE, NONPARTISAN STAFF SHALL

MAXIMIZE THE NUMBER OF FAIR AND COMPETITIVE SENATORIAL DISTRICTS AND REPRESENTATIVE DISTRICTS.

SECTION 4. In the constitution of the state of Colorado, add section 47.5 of article V as follows:

**Section 47.5 CRITERIA – CONGRESSIONAL DISTRICTS.**

(1) IN ESTABLISHING CONGRESSIONAL DISTRICTS THE COMMISSION AND NONPARTISAN STAFF:

(a) SHALL UTILIZE THE FOLLOWING FACTORS:

(I) EQUAL POPULATION AS PROVIDED BY LAW;

(II) COMPLIANCE WITH SECTION 2 OF THE FEDERAL “VOTING RIGHTS ACT OF 1965”,AS AMENDED; AND

(b) MAY, WITHOUT WEIGHT TO ANY FACTOR, UTILIZE FACTORS INCLUDING, BUT NOT LIMITED TO:

(I) THE PRESERVATION OF POLITICAL SUBDIVISIONS SUCH AS COUNTIES, CITIES AND TOWNS. WHEN COUNTY, CITY, OR TOWN BOUNDARIES ARE CHANGED, ADJUSTMENTS, IF ANY, IN DISTRICTS SHALL BE AS PRESCRIBED BY LAW;

(II) THE PRESERVATION OF COMMUNITIES OF INTEREST, INCLUDING ETHNIC, CULTURAL, ECONOMIC, TRADE AREA, GEOGRAPHIC, AND DEMOGRAPHIC FACTORS;

(III) THE COMPACTNESS OF EACH CONGRESSIONAL DISTRICT;  
AND

(IV) THE MINIMIZATION OF DISRUPTION OF PRIOR DISTRICT LINES.

(c) SHALL, AFTER ADHERING TO THE PROVISIONS OF THIS SUBSECTION (a) AND CONSIDERING THE PROVISIONS OF THIS SUBSECTION (b), MAXIMIZE THE NUMBER OF FAIR AND COMPETITIVE

CONGRESSIONAL DISTRICTS.

SECTION 5. In the constitution of the state of Colorado, **amend** section 48 of article V as follows:

**Section 48. Colorado redistricting commission.** (1) (a) After each federal census of the United States, the COLORADO REDISTRICTING COMMISSION SHALL CONVENE IN ACCORDANCE WITH THIS SECTION. THE DIRECTORS OF THE GENERAL ASSEMBLY'S NONPARTISAN RESEARCH AND LEGAL SERVICES STAFF SHALL ASSIGN MEMBERS FROM HIS OR HER OFFICE TO SERVE AS NONPARTISAN STAFF ASSIGNED TO THE COMMISSION. THESE STAFF MEMBERS ARE REFERRED TO IN THIS ARTICLE AS NONPARTISAN STAFF. NONPARTISAN STAFF SHALL PROPOSE TO THE COMMISSION CONGRESSIONAL DISTRICTS, AND senatorial districts and representative districts ~~shall be established, revised, or altered, and the members of the senate and the house of representatives apportioned among them, by a Colorado reapportionment~~ OF THE GENERAL ASSEMBLY. THE commission ~~consisting~~ SHALL CONSIST OF ~~eleven~~ TWELVE members ~~to be appointed~~ and having the qualifications as prescribed in this section. ~~Of such members, four shall be appointed by the legislative department, three by the executive department, and four by the judicial department of the state.~~

(b) ~~The four legislative members shall be the speaker of the house of representatives, the minority leader of the house of representatives, and the majority~~ PRESIDENT OF THE SENATE, and THE ~~minority leaders~~ LEADER of the senate ~~or the designee of any such officer to serve in his or her stead, which acceptance of service or designation shall be made~~ SHALL EACH APPOINT TWO MEMBERS FROM

HIS OR HER OWN PARTY SO THAT NO MORE THAN FOUR MEMBERS MAY BE REGISTERED WITH THE SAME PARTY FOR A TOTAL OF EIGHT MEMBERS, no later than ~~April 15~~ MARCH 25 of the year following that in which the federal census is taken. ~~The three executive members shall be appointed by the governor between April 15 and April 25 of such year, and the four judicial members shall be appointed by the chief justice of the Colorado supreme court between April 25 and May 5 of such year.~~

(c) THE DIRECTOR OF THE GENERAL ASSEMBLY'S NONPARTISAN RESEARCH STAFF SHALL RECEIVE APPLICATIONS FOR THE FINAL FOUR POSITIONS ON THE COMMISSION AND REVIEW THE APPLICATIONS TO ENSURE THAT THE APPLICANTS MEETS THE CRITERIA OF THIS SUBSECTION (c). THE MEMBERS APPOINTED UNDER THIS SUBSECTION (c) MAY NOT BE, OR HAVE BEEN, AFFILIATED, FOR A PERIOD OF ONE CALENDAR YEAR PRIOR TO THEIR APPOINTMENT, WITH THE SAME POLITICAL PARTY OF ANY MEMBER ALREADY APPOINTED TO THE COMMISSION. THESE FOUR APPOINTMENTS SHALL BE MADE AS FOLLOWS NO LATER THAN APRIL 25 OF THAT SAME YEAR:

(I) (A) THE HIGHEST RANKING ELECTED OFFICIAL WHO IS A MEMBER OF ONE OF THE STATE'S TWO LARGEST PARTIES SHALL APPOINT TWO MEMBERS WHO ARE REGISTERED WITH MINOR PARTIES OR WHO ARE UNAFFILIATED.

(B) THE NEXT HIGHEST RANKING ELECTED OFFICIAL WHO IS A MEMBER OF ONE OF THE STATE'S TWO LARGEST PARTIES OTHER THAN THE PARTY OF THE OFFICIAL REFERENCED IN SUBSECTION (I)(A) SHALL APPOINT TWO MEMBERS WHO ARE REGISTERED WITH MINOR PARTIES OR UNAFFILIATED.

(C) THE APPOINTING AUTHORITIES IN THIS SUBSECTION (I) SHALL

FOLLOW THE ORDER OF OFFICIALS PURSUANT TO SUBSECTION 7 OF SECTION 13 OF ARTICLE IV OF THIS CONSTITUTION.

~~-(e)~~ (d) Commission members ~~shall~~ MUST be qualified electors of the state of Colorado. COMMISSION MEMBERS MAY NOT BE A REGISTERED LOBBYIST, INCUMBENT MEMBER OF THE GENERAL ASSEMBLY OR CONGRESS, OR A CURRENT CANDIDATE FOR SUCH OFFICE. ~~No more than four commission members shall be members of the general assembly. No more than six commission members shall be affiliated with the same political party.~~ No more than four commission members ~~shall~~ MAY be residents of the same congressional district, and each congressional district ~~shall~~ MUST have at least one resident as a commission member SO LONG AS COLORADO HAS BEEN APPORTIONED NO MORE THAN TWELVE CONGRESSIONAL DISTRICTS. At least one commission member ~~shall~~ MUST reside west of the continental divide.

(d) (e) Any vacancy created by the death or resignation of a member, or otherwise, shall be filled by the respective appointing authority. Members of the commission shall hold office until ~~their reapportionment~~ and A redistricting plan is implemented OR OTHERWISE REMOVED AS PROVIDED HEREIN. No later than May 15 of the year of their appointment, the governor shall convene the commission and appoint a temporary ~~chairman~~ CHAIRPERSON who shall preside until the commission elects its own officers.

~~(e) Within one hundred thirteen days after the commission has been convened or the necessary census data are available, whichever is later, the commission shall publish a preliminary plan for reapportionment of the members of the general assembly and shall hold public hearings thereon in several places throughout the state within~~



~~forty five days after the date of such publication. No later than one hundred twenty three days prior to the date established in statute for preeinct caucuses in the second year following the year in which the census was taken or, if the election laws do not provide for precinct caucuses, no later than one hundred twenty three days prior to the date established in statute for the event commencing the candidate selection process in such year, the commission shall finalize its plan and submit the same to the Colorado supreme court for review and determination as to compliance with sections 46 and 47 of this article. Such review and determination shall take precedence over other matters before the court. The supreme court shall adopt rules for such proceedings and for the production and presentation of supportive evidence for such plan. Any legal arguments or evidence concerning such plan shall be submitted to the supreme court pursuant to the schedule established by the court; except that the final submission must be made no later than ninety days prior to the date established in statute for precinct caucuses in the second year following the year in which the census was taken or, if the election laws do not provide for precinct caucuses, no later than ninety days prior to the date established in statute for the event commencing the candidate selection process in such year. The supreme court shall either approve the plan or return the plan and the court's reasons for disapproval to the commission. If the plan is returned, the commission shall revise and modify it to conform to the court's requirements and resubmit the plan to the court within the time period specified by the court. The supreme court shall approve a plan for the redrawing of the districts of the members of the general assembly by a date that will allow sufficient time for such plan to be filed with the secretary of state~~

~~no later than fifty five days prior to the date established in statute for precinct caucuses in the second year following the year in which the census was taken or, if the election laws do not provide for precinct caucuses, no later than fifty five days prior to the date established in statute for the event commencing the candidate selection process in such year. The court shall order that such plan be filed with the secretary of state no later than such date. The commission shall keep a public record of all the proceedings of the commission and shall be responsible for the publication and distribution of copies of each plan.~~

(f) ANY MOTION ADOPTED BY THE COMMISSION, INCLUDING THE ELECTION OF ITS OFFICERS AND APPROVAL OF ANY PLAN, REQUIRES THE AFFIRMATIVE VOTE OF AT LEAST EIGHT COMMISSION MEMBERS, EXCEPT FOR MOTIONS TO AMEND THE INITIAL PLANS WHICH REQUIRE THE AFFIRMATIVE VOTE OF AT LEAST SEVEN COMMISSION MEMBERS.

(g) EXCEPT AS TO MATTERS OTHERWISE PROVIDED FOR HEREIN, THE COMMISSION SHALL ADOPT RULES TO GOVERN ITS ADMINISTRATION AND OPERATION INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

(1) MAINTENANCE OF A RECORD OF THE COMMISSION'S ACTIVITIES AND PROCEEDINGS, INCLUDING A RECORD OF WRITTEN AND ORAL TESTIMONY RECEIVED, AND OF THE CHANGES TO ANY PLAN DRAFTED BY NONPARTISAN STAFF AND THE RATIONALE FOR SUCH CHANGES;

(2) THE PROCESS FOR REMOVAL OF MEMBERS FOR CAUSE;

(3) THE PROCESS FOR RECOMMENDING CHANGES TO NONPARTISAN STAFF RELATED TO THE PLANS THAT NONPARTISAN STAFF HAS SUBMITTED TO THE COMMISSION; AND

(4) ADOPTION OF A STATEWIDE MEETING AND HEARING SCHEDULE.

(2) (a) (I) WITHIN THIRTY DAYS AFTER THE COMMISSION HAS BEEN CONVENED OR THE NECESSARY CENSUS DATA ARE AVAILABLE, WHICHEVER IS LATER, NONPARTISAN STAFF SHALL PUBLISH A PRELIMINARY REDISTRICTING PLAN FOR CONGRESSIONAL DISTRICTS AND, NO LATER THAN FOURTEEN DAYS AFTER THAT, FOR SENATORIAL DISTRICTS AND REPRESENTATIVE DISTRICTS OF THE GENERAL ASSEMBLY. NONPARTISAN STAFF SHALL KEEP ALL PLANS PREPARED IN ACCORDANCE WITH THIS SECTION CONFIDENTIAL UNTIL THEY HAVE BEEN PRESENTED TO THE COMMISSION AT A PROPERLY NOTICED MEETING OR HEARING OF THE COMMISSION.

(II) IF, FOR ANY REASON, NONPARTISAN STAFF IS UNABLE TO PRESENT PRELIMINARY PLANS TO THE COMMISSION, THE NONPARTISAN STAFF SHALL PUBLISH THE PRELIMINARY PLANS AND ACCEPT PUBLIC COMMENTS ON THE PLANS PRIOR TO SUBMITTING THE PRELIMINARY PLANS DIRECTLY TO THE SUPREME COURT ON THE LAST BUSINESS DAY PRIOR TO OCTOBER 7 OF THAT SAME YEAR. THE COURT'S CONSIDERATION SHALL BE AS TO WHETHER THE PLANS ADHERE TO THE CRITERIA OUTLINED IN THIS SECTION AND SECTIONS 46, 47, AND 47.5 OF THIS ARTICLE.

(b) (I) THE COMMISSION SHALL BE SUBJECT TO COLORADO STATUTORY PROVISIONS CONCERNING OPEN MEETINGS, OPEN RECORDS AND DISCLOSURE BY PUBLIC OFFICIALS, GENERALLY REFERRED TO AS COLORADO SUNSHINE LAWS, AS AMENDED FROM TIME TO TIME BY THE GENERAL ASSEMBLY. FOR THE PURPOSE OF THIS COMMISSION, PROPER NOTICE FOR A MEETING OR HEARING OF THE COMMISSION, INCLUDING

TIME, PLACE AND AGENDA, SHALL BE POSTED AT LEAST THREE DAYS PRIOR TO SUCH MEETING ON A WEB SITE DEDICATED BY NONPARTISAN STAFF FOR THE PURPOSE OF REDISTRICTING;

(II) A COMMISSIONER WHO ENGAGES IN COMMUNICATIONS, IF SUCH COMMUNICATIONS ARE MADE OUTSIDE OF A COMMISSION'S PROPERLY NOTICED PUBLIC HEARING AND THE COMMUNICATIONS RELATE TO THE MAPPING OF POLITICAL DISTRICTS, SHALL DISCLOSE, AT EACH MEETING, A LIST OF INDIVIDUALS WITH WHOM THEY HAVE HAD SUCH COMMUNICATIONS;

(III) COMMISSIONERS MAY COMMUNICATE WITH ONE ANOTHER ABOUT THE MAPPING OF POLITICAL DISTRICTS PROVIDED THAT COMMUNICATION BETWEEN MORE THAN THREE COMMISSIONERS AT ONE TIME MUST BE PROPERLY NOTICED PURSUANT TO THIS SUBSECTION (I). EXCEPT FOR TECHNICAL AND OPERATIONAL MATTERS AND PREPARING FOR THE COMMISSION'S CONSIDERATION AMENDMENTS DRAFTED BY COMMISSIONERS, COMMISSIONERS MAY NOT COMMUNICATE WITH NONPARTISAN STAFF ON THE MAPPING OF POLITICAL DISTRICTS UNLESS THE COMMUNICATION IS DURING A PROPERLY NOTICED MEETING OR HEARING OF THE COMMISSION;

(IV) NONPARTISAN STAFF ARE NOT PERMITTED TO HAVE EX PARTE COMMUNICATIONS ABOUT THE CONTENT OR DEVELOPMENT OF ANY PLAN. COMMUNICATIONS TO AND FROM NONPARTISAN STAFF RELATED TO ADMINISTRATIVE AND OPERATIONAL MATTERS OF MAPPING POLITICAL DISTRICTS AND GENERAL DISCUSSIONS ABOUT THE REDISTRICTING PROCESS ARE NOT PROHIBITED. WORK PRODUCT AND COMMUNICATIONS BETWEEN NONPARTISAN STAFF SHALL BE SUBJECT TO DISCLOSURE UNDER COLORADO OPEN RECORDS LAWS WHEN THE

PLAN TO WHICH THE WORK PRODUCT OR COMMUNICATION RELATES IS PRESENTED TO THE COMMISSION DURING A PROPERLY NOTICED MEETING OR HEARING OF THE COMMISSION;

(V) ANY COMMISSIONER BEING FOUND TO HAVE PARTICIPATED IN COMMUNICATIONS PROHIBITED UNDER THIS SECTION SHALL BE REMOVED FROM THE COMMISSION AND REPLACED WITHIN SEVEN DAYS BY A NEW COMMISSIONER APPOINTED BY THE SAME AUTHORITY HAVING APPOINTED THE COMMISSIONER REMOVED FROM THE COMMISSION;

(VI) NONPARTISAN STAFF SHALL REPORT TO THE COMMISSION ANY ATTEMPTS TO CONDUCT ANY COMMUNICATION PROHIBITED UNDER THIS SECTION AND SHALL REPORT TO THE COMMISSION ANY ATTEMPTS TO EXERT INFLUENCE OVER THE DRAFTING OF PLANS.

(c) NONPARTISAN STAFF SHALL NOT DRAW ANY PLAN FOR THE PURPOSE OF FAVORING A POLITICAL PARTY, INCUMBENT LEGISLATOR, MEMBER OF CONGRESS, OR OTHER PERSON. FOR THE PURPOSE OF ESTABLISHING FAIR AND COMPETITIVE DISTRICTS, NONPARTISAN STAFF MAY USE AND CONSIDER ELECTION PERFORMANCE DATA.

(3) (a) THE COMMISSION SHALL HOLD PUBLIC HEARINGS ON THE PRELIMINARY PLANS IN SEVERAL PLACES THROUGHOUT THE STATE, INCLUDING AT LEAST THREE HEARINGS IN EACH OF COLORADO'S CONGRESSIONAL DISTRICTS AND AT LEAST TWO HEARINGS WEST OF THE CONTINENTAL DIVIDE, WITHIN FORTY-FIVE DAYS AFTER THE DATE OF THE PUBLICATION OF THE CONGRESSIONAL PLAN. THE COMMISSION SHALL NOT AMEND OR VOTE UPON ANY PRELIMINARY PLAN BUT MAY INSTRUCT NONPARTISAN STAFF ON HOW THE PRELIMINARY PLANS CAN BE ADJUSTED DURING DEVELOPMENT OF INITIAL PLANS. NO LATER THAN TWENTY DAYS AFTER THE CONCLUSION OF THE LAST PUBLIC

HEARING, THE NONPARTISAN STAFF SHALL SUBMIT INITIAL PLANS TO THE COMMISSION FOR ITS CONSIDERATION. THE COMMISSION SHALL VOTE ON THE PLANS NOT LESS THAN SEVEN DAYS AFTER THEIR SUBMISSION. IF THE COMMISSION VOTES ON AN INITIAL PLAN AND DOES NOT APPROVE THE PLAN, THE COMMISSION SHALL PROMPTLY PUBLISH AND PROVIDE THE NONPARTISAN STAFF WRITTEN REASONS WHY THE PLAN WAS NOT APPROVED.

(b) IF THE COMMISSION REJECTS A PLAN PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3), THE NONPARTISAN STAFF SHALL PREPARE A SECOND PLAN, ADJUSTING THE PLAN ACCORDING TO THE REASONS CITED BY THE COMMISSION FOR DISAPPROVAL OF THE INITIAL PLAN. IF A SECOND PLAN IS REQUIRED UNDER THIS PARAGRAPH (b), THE PLAN SHALL BE SUBMITTED TO THE COMMISSION WITHIN TEN DAYS OF THE COMMISSION'S VOTE ON THE PREVIOUS PLAN. THE COMMISSION SHALL VOTE ON THE PLAN NOT LESS THAN SEVEN DAYS AFTER THE PLAN'S SUBMISSION. IF THE COMMISSION VOTES ON A PLAN PURSUANT TO THIS PARAGRAPH (b) AND DOES NOT APPROVE THE PLAN, THE COMMISSION SHALL PROMPTLY PUBLISH AND PROVIDE THE NONPARTISAN STAFF WRITTEN REASONS WHY THE PLAN WAS NOT APPROVED.

(c) IF THE COMMISSION REJECTS A PLAN PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (3), THE NONPARTISAN STAFF SHALL PREPARE A THIRD PLAN, ADJUSTING THE PLAN ACCORDING TO THE REASONS CITED BY THE COMMISSION FOR THE DISAPPROVAL OF THE SECOND PLAN. IF A THIRD PLAN IS REQUIRED UNDER THIS PARAGRAPH (c), THE PLAN SHALL BE SUBMITTED TO THE COMMISSION WITHIN TEN DAYS OF THE COMMISSION'S VOTE ON THE PREVIOUS PLAN. THE

COMMISSION SHALL VOTE ON THE PLAN NOT LESS THAN SEVEN DAYS AFTER THE PLAN'S SUBMISSION.

(d) IF THE COMMISSION DOES NOT APPROVE A PLAN FOR SENATORIAL DISTRICTS OR REPRESENTATIVE DISTRICTS PURSUANT TO THIS PARAGRAPH (c), THE COMMISSION SHALL SUBMIT THE UNAMENDED SECOND PLAN TO THE SUPREME COURT AS SPECIFIED IN PARAGRAPH (g) OF THIS SUBSECTION (3). IF A PLAN FOR SENATORIAL DISTRICTS OR REPRESENTATIVE DISTRICTS IS NOT DRAFTED PURSUANT TO THIS SUBSECTION (b) OR (c), THEN THE COMMISSION SHALL SUBMIT THE UNAMENDED INITIAL PLAN TO THE SUPREME COURT AS SPECIFIED IN PARAGRAPH (g) OF THIS SUBSECTION (3).

(e) NO LATER THAN OCTOBER 6 OF THAT SAME YEAR THE COMMISSION SHALL FINALIZE EACH PLAN. THE COMMISSION MAY ADJUST THE DEADLINES OF THIS SUBSECTION (3) (a) THROUGH (c) IF CONDITIONS OUTSIDE OF THE COMMISSION'S CONTROL REQUIRE SUCH AN ADJUSTMENT TO ENSURE FINALIZING EACH PLAN AS REQUIRED IN THIS SUBSECTION (e).

(f) THE COMMISSION MAY GRANT NONPARTISAN STAFF THE ABILITY TO MAKE TECHNICAL, DE MINIMUS ADJUSTMENTS TO ANY APPROVED PLAN PRIOR TO ITS SUBMISSION TO THE COLORADO SUPREME COURT.

(g) (I) THE COMMISSION SHALL PROMPTLY SUBMIT THE PLANS TO THE COLORADO SUPREME COURT FOR REVIEW AND DETERMINATION AS TO COMPLIANCE WITH SECTIONS 46, 47, 47.5 AND 48 OF THIS ARTICLE. SUCH REVIEW AND DETERMINATION TAKES PRECEDENCE OVER THE OTHER MATTERS BEFORE THE COURT.

(II) THE SUPREME COURT SHALL ADOPT RULES FOR SUCH

PROCEEDINGS AND FOR THE PRODUCTION AND PRESENTATION OF SUPPORTIVE EVIDENCE, INCLUDING THE RECORD MAINTAINED BY THE COMMISSION, FOR THE PLANS. LEGAL ARGUMENTS OR EVIDENCE CONCERNING THE PLANS MUST BE SUBMITTED TO THE SUPREME COURT PURSUANT TO THE SCHEDULE ESTABLISHED BY THE COURT; EXCEPT THAT THE FINAL SUBMISSION MUST BE MADE NO LATER THAN OCTOBER 20 OF THAT SAME YEAR.

(h) (I) –THE SUPREME COURT SHALL EITHER APPROVE THE PLANS OR RETURN ~~the plan~~ ONE OR MORE PLANS AND THE COURT’S REASONS FOR DISAPPROVAL TO THE COMMISSION. IF A PLAN IS RETURNED, THE NONPARTISAN STAFF SHALL PREPARE A PLAN TO CONFORM TO THE COURT’S REQUIREMENTS. THE COMMISSION MAY REQUEST THAT NONPARTISAN STAFF MAKE ADJUSTMENTS TO THE CONFORMING PLAN. AN APPROVED, CONFORMING PLAN SHALL BE SUBMITTED TO THE COURT WITHIN THE TIME PERIOD SPECIFIED BY THE COURT. ADOPTION OF A PLAN PURSUANT TO THIS SUBPARAGRAPH (I) REQUIRES THE AFFIRMATIVE VOTE OF AT LEAST EIGHT COMMISSIONERS.

(II) IF THE COMMISSION HAS NOT ADOPTED A PLAN FOR SENATORIAL AND REPRESENTATIVE DISTRICTS WITHIN THE TIME PERIOD SPECIFIED BY THE COURT FOR THE COMMISSION TO ACT, THE NONPARTISAN STAFF SHALL SUBMIT THE UNAMENDED CONFORMING PLAN TO THE COURT WITHIN THE TIME PERIOD SPECIFIED BY THE COURT FOR THE COMMISSION TO ACT.

(III) THE SUPREME COURT SHALL APPROVE EACH REDISTRICTING PLAN BY A DATE THAT WILL ALLOW SUFFICIENT TIME FOR THE PLANS TO BE FILED WITH THE SECRETARY OF STATE NO LATER THAN DECEMBER 15 OF THAT SAME YEAR. THE COURT SHALL ORDER



THAT EACH PLAN BE FILED WITH THE SECRETARY OF STATE NO LATER THAN SUCH DATE. THE COMMISSION SHALL KEEP A PUBLIC RECORD OF ALL THE PROCEEDINGS OF THE COMMISSION AND SHALL BE RESPONSIBLE FOR THE PUBLICATION AND DISTRIBUTION OF COPIES OF EACH PLAN.

~~(F)~~ (4) The general assembly shall appropriate sufficient funds for the compensation and payment of the expenses of the commission members and any staff employed by it. The commission shall have access to statistical information compiled by the state or its political subdivisions and necessary for its REDISTRICTING duties.

RECEIVED

MAR 04 2016

S. WARD

2:48 P.M.

Colorado Secretary of State

2015-2016 #107 - Amended

*Be it Enacted by the People of the State of Colorado:*

SECTION 1. In the constitution of the state of Colorado, add section 43.5 to article V as follows:

*Congressional and Legislative Appointments*

**SECTION 43.5. POLITICAL GERRYMANDERING PROHIBITED.**

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SECTION 2. In the constitution of the state of Colorado, amend section 44 of article V as follows:

Section 44. Representatives in congress. The ~~general assembly~~ NONPARTISAN STAFF ASSIGNED TO THE COLORADO REDISTRICTING COMMISSION shall divide the state into as many

congressional districts as there are representatives in congress apportioned to this state by the congress of the United States for the election of one representative to congress from each district. When a new apportionment ~~shall be~~ IS made by congress, the ~~general assembly~~ ~~NONPARTISAN STAFF ASSIGNED TO THE~~ COLORADO REDISTRICTING COMMISSION shall divide the state into congressional districts accordingly.

SECTION 3. In the constitution of the state of Colorado, amend section 47 of article V as follows:

**Section 47. ~~Composition of districts~~ CRITERIA – STATE SENATORIAL DISTRICTS AND REPRESENTATIVE DISTRICTS.**

(1) Each district shall be as compact in area as possible and the aggregate linear distance of all district boundaries shall be as short as possible. ~~Each district shall consist of contiguous whole general election precincts.~~ Districts of the same house shall BE CONTIGUOUS AND SHALL not overlap.

(2) Except when necessary to meet the equal population requirements of section 46, no part of one county shall be added to all or part of another county in forming districts. Within counties whose territory is contained in more than one district of the same house, the number of cities and towns whose territory is contained in more than one district of the same house shall be as small as possible. When county, city, or town boundaries are changed, adjustments, if any, in legislative districts shall be as prescribed by law.

(3) Consistent with the provisions of this section and section 46 of this article, communities of interest, including ethnic, cultural, economic, trade area, geographic, and demographic factors, shall be preserved within a single district wherever possible.

(4) AFTER ~~FOLLOWING THE CONSIDERATION OF~~ SUBSECTIONS 1, 2, AND 3 OF THIS SECTION, ~~AND~~ SECTION 46 OF THIS ARTICLE, ~~AND APPLICABLE LAW,~~ NONPARTISAN STAFF SHALL MAXIMIZE THE NUMBER OF FAIR AND COMPETITIVE SENATORIAL DISTRICTS AND REPRESENTATIVE DISTRICTS.

SECTION 4. In the constitution of the state of Colorado, add section 47.5 of article V as follows:

**Section 47.5 CRITERIA – CONGRESSIONAL DISTRICTS.**

(1) IN ESTABLISHING CONGRESSIONAL DISTRICTS THE ~~COMMISSION AND~~ NONPARTISAN STAFF:

(a) SHALL UTILIZE THE FOLLOWING FACTORS:

(I) EQUAL POPULATION AS PROVIDED BY LAW;

(II) COMPLIANCE WITH SECTION 2 OF THE FEDERAL "VOTING RIGHTS ACT OF 1965", ~~IN PARTICULAR 42 U.S.C. SEC. 1973, AND APPLICABLE LAW~~ AS AMENDED; AND

(b) MAY, WITHOUT WEIGHT TO ANY FACTOR, UTILIZE FACTORS INCLUDING, BUT NOT LIMITED TO:

(I) THE PRESERVATION OF POLITICAL SUBDIVISIONS SUCH AS COUNTIES, CITIES AND TOWNS. WHEN COUNTY, CITY, OR TOWN BOUNDARIES ARE CHANGED, ADJUSTMENTS, IF ANY, IN DISTRICTS SHALL BE AS PRESCRIBED BY LAW;

(II) THE PRESERVATION OF COMMUNITIES OF INTEREST, INCLUDING ETHNIC, CULTURAL, ECONOMIC, TRADE AREA, GEOGRAPHIC, AND DEMOGRAPHIC FACTORS;

(III) THE COMPACTNESS OF EACH CONGRESSIONAL DISTRICT;  
AND

(IV) THE MINIMIZATION OF DISRUPTION OF PRIOR DISTRICT

LINES.

(c) SHALL, AFTER ADHERING TO THE PROVISIONS OF THIS SUBSECTION (a) AND CONSIDERING THE PROVISIONS OF THIS SUBSECTION (b), MAXIMIZE THE NUMBER OF FAIR AND COMPETITIVE CONGRESSIONAL DISTRICTS.

SECTION 5. In the constitution of the state of Colorado, ~~amend~~ section 48 of article V as follows:

**Section 48. Colorado redistricting commission.** (1) (a) After each federal census of the United States, the COLORADO REDISTRICTING COMMISSION SHALL CONVENE IN ACCORDANCE WITH THIS SECTION. THE DIRECTORS OF THE GENERAL ASSEMBLY'S NONPARTISAN RESEARCH AND LEGAL SERVICES STAFF SHALL ASSIGN MEMBERS FROM HIS OR HER OFFICE TO SERVE AS NONPARTISAN STAFF ASSIGNED TO THE COMMISSION. THESE STAFF MEMBERS ARE REFERRED TO IN THIS ARTICLE AS NONPARTISAN STAFF. NONPARTISAN STAFF SHALL PROPOSE TO THE COMMISSION CONGRESSIONAL DISTRICTS, AND senatorial districts and representative districts ~~shall be established, revised, or altered, and the members of the senate and the house of representatives apportioned among them, by a Colorado reapportionment~~ OF THE GENERAL ASSEMBLY. THE commission ~~consisting~~ SHALL CONSIST of ~~eleven~~ TWELVE members ~~to be appointed~~ and having the qualifications as prescribed in this section. ~~Of such members, four shall be appointed by the legislative department, three by the executive department, and four by the judicial department of the state.~~

(b) ~~The four legislative members shall be the speaker of the house of representatives, the minority leader of the house of~~

~~representatives, and the majority~~ PRESIDENT OF THE SENATE, and THE ~~minority leaders~~ LEADER of the senate ~~or the designee of any such officer to serve in his or her stead, which acceptance of service or designation shall be made~~ SHALL EACH APPOINT TWO MEMBERS FROM HIS OR HER OWN PARTY SO THAT NO MORE THAN FOUR MEMBERS MAY BE REGISTERED WITH THE SAME PARTY FOR A TOTAL OF EIGHT MEMBERS, no later than ~~April 15~~ MARCH 25 of the year following that in which the federal census is taken. ~~The three executive members shall be appointed by the governor between April 15 and April 25 of such year, and the four judicial members shall be appointed by the chief justice of the Colorado supreme court between April 25 and May 5 of such year.~~

(c) THE DIRECTOR OF THE GENERAL ASSEMBLY'S NONPARTISAN RESEARCH STAFF SHALL RECEIVE APPLICATIONS FOR THE FINAL FOUR POSITIONS ON THE COMMISSION AND REVIEW THE APPLICATIONS TO ENSURE THAT THE APPLICANTS MEETS THE CRITERIA OF THIS SUBSECTION (c). THE MEMBERS APPOINTED UNDER THIS SUBSECTION (c) MAY NOT BE, OR HAVE BEEN, AFFILIATED, FOR A PERIOD OF ONE CALENDAR YEAR PRIOR TO THEIR APPOINTMENT, WITH THE SAME POLITICAL PARTY OF ANY MEMBER ALREADY APPOINTED TO THE COMMISSION. THESE FOUR APPOINTMENTS SHALL BE MADE AS FOLLOWS NO LATER THAN APRIL 25 OF THAT SAME YEAR:

(I) (A) THE HIGHEST RANKING ELECTED OFFICIAL WHO IS A MEMBER OF ONE OF THE STATE'S TWO LARGEST PARTIES SHALL APPOINT TWO MEMBERS WHO ARE REGISTERED WITH MINOR PARTIES OR WHO ARE UNAFFILIATED.

(B) THE NEXT HIGHEST RANKING ~~MAJOR PARTY~~ ELECTED OFFICIAL WHO IS A MEMBER OF ONE OF THE STATE'S TWO ~~MAJOR~~

LARGEST PARTIES OTHER THAN THE PARTY OF THE OFFICIAL  
REFERENCED IN SUBSECTION (I)(A) SHALL APPOINT TWO MEMBERS WHO  
ARE REGISTERED WITH MINOR PARTIES OR UNAFFILIATED.

(C) THE APPOINTING AUTHORITIES IN THIS SUBSECTION (I) SHALL  
FOLLOW THE ORDER OF OFFICIALS PURSUANT TO SUBSECTION 7 OF  
SECTION 13 OF ARTICLE IV OF THIS CONSTITUTION.

~~-(e)~~ (d) Commission members ~~shall~~ MUST be qualified electors  
of the state of Colorado. COMMISSION MEMBERS MAY NOT BE A  
REGISTERED LOBBYIST, INCUMBENT MEMBER OF THE GENERAL  
ASSEMBLY OR CONGRESS, OR A CURRENT CANDIDATE FOR SUCH OFFICE.  
~~No more than four commission members shall be members of the  
general assembly. No more than six commission members shall be  
affiliated with the same political party.~~ No more than four commission  
members ~~shall~~ MAY be residents of the same congressional district, and  
each congressional district ~~shall~~ MUST have at least one resident as a  
commission member SO LONG AS COLORADO HAS BEEN APPORTIONED  
NO MORE THAN TWELVE CONGRESSIONAL DISTRICTS. At least one  
commission member ~~shall~~ MUST reside west of the continental divide.

~~(d)~~ (e) Any vacancy created by the death or resignation of a  
member, or otherwise, shall be filled by the respective appointing  
authority. Members of the commission shall hold office until ~~their  
reapportionment and~~ A redistricting plan is implemented OR OTHERWISE  
REMOVED AS PROVIDED HEREIN. No later than May 15 of the year of  
their appointment, the governor shall convene the commission and  
appoint a temporary ~~chairman~~ CHAIRPERSON who shall preside until the  
commission elects its own officers.

~~(e) Within one hundred thirteen days after the commission has~~

~~been convened or the necessary census data are available, whichever is later, the commission shall publish a preliminary plan for reapportionment of the members of the general assembly and shall hold public hearings thereon in several places throughout the state within forty-five days after the date of such publication. No later than one hundred twenty-three days prior to the date established in statute for precinct caucuses in the second year following the year in which the census was taken or, if the election laws do not provide for precinct caucuses, no later than one hundred twenty-three days prior to the date established in statute for the event commencing the candidate selection process in such year, the commission shall finalize its plan and submit the same to the Colorado supreme court for review and determination as to compliance with sections 46 and 47 of this article. Such review and determination shall take precedence over other matters before the court. The supreme court shall adopt rules for such proceedings and for the production and presentation of supportive evidence for such plan. Any legal arguments or evidence concerning such plan shall be submitted to the supreme court pursuant to the schedule established by the court; except that the final submission must be made no later than ninety days prior to the date established in statute for precinct caucuses in the second year following the year in which the census was taken or, if the election laws do not provide for precinct caucuses, no later than ninety days prior to the date established in statute for the event commencing the candidate selection process in such year. The supreme court shall either approve the plan or return the plan and the court's reasons for disapproval to the commission. If the plan is returned, the commission shall revise and modify it to conform to the court's requirements and~~



~~resubmit the plan to the court within the time period specified by the court. The supreme court shall approve a plan for the redrawing of the districts of the members of the general assembly by a date that will allow sufficient time for such plan to be filed with the secretary of state no later than fifty five days prior to the date established in statute for precinct caucuses in the second year following the year in which the census was taken or, if the election laws do not provide for precinct caucuses, no later than fifty five days prior to the date established in statute for the event commencing the candidate selection process in such year. The court shall order that such plan be filed with the secretary of state no later than such date. The commission shall keep a public record of all the proceedings of the commission and shall be responsible for the publication and distribution of copies of each plan.~~

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(f) ANY MOTION ADOPTED BY THE COMMISSION, INCLUDING THE ELECTION OF ITS OFFICERS AND APPROVAL OF ANY PLAN, REQUIRES THE AFFIRMATIVE VOTE OF AT LEAST EIGHT COMMISSION MEMBERS, EXCEPT FOR MOTIONS TO AMEND THE INITIAL MAPPLANS WHICH REQUIRE THE AFFIRMATIVE VOTE OF AT LEAST SEVEN COMMISSION MEMBERS.

(g) EXCEPT AS TO MATTERS OTHERWISE PROVIDED FOR HEREIN, THE COMMISSION SHALL ADOPT RULES TO GOVERN ITS ADMINISTRATION AND OPERATION INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

(1) MAINTENANCE OF A RECORD OF THE COMMISSION'S ACTIVITIES AND PROCEEDINGS, INCLUDING A RECORD OF WRITTEN AND ORAL TESTIMONY RECEIVED, AND OF THE CHANGES TO ANY MAPPLAN DRAFTED BY NONPARTISAN STAFF AND THE RATIONALE FOR SUCH CHANGES;

(2) THE PROCESS FOR REMOVAL OF MEMBERS FOR CAUSE;

(3) THE PROCESS FOR RECOMMENDING CHANGES TO NONPARTISAN STAFF RELATED TO THE MAPPLANS THAT NONPARTISAN STAFF HAS SUBMITTED TO THE COMMISSION; AND

(4) ADOPTION OF A STATEWIDE MEETING AND HEARING SCHEDULE.

~~(e) (2) (a) (I) Within one hundred thirteen~~ WITHIN THIRTY days after the commission has been convened or the necessary census data are available, whichever is later, the commission DAYS AFTER THE COMMISSION HAS BEEN CONVENED OR THE NECESSARY CENSUS DATA ARE AVAILABLE, WHICHEVER IS LATER, NONPARTISAN STAFF shall publish a preliminary SHALL PUBLISH A PRELIMINARY REDISTRICTING plan for PLAN FOR reapportionment of the members of CONGRESSIONAL DISTRICTS AND, NO LATER THAN FOURTEEN DAYS AFTER THAT, FOR SENATORIAL DISTRICTS AND REPRESENTATIVE DISTRICTS OF the general assembly THE GENERAL ASSEMBLY. and Nonpartisan staff shall keep all plans prepared in accordance with this section confidential until they have been presented to the commission at a properly noticed meeting or hearing of the commission.

(II) If, for any reason, nonpartisan staff is unable to present preliminary plans to the commission, the nonpartisan staff shall publish the preliminary plans and accept public comments on the plans prior to submitting the preliminary plans directly to the supreme court on the last business day prior to October 7 of that same year. The court's consideration shall be as to whether the plans adhere to the

CRITERIA OUTLINED IN THIS SECTION AND SECTIONS 46, 47, AND 47.5 OF THIS ARTICLE.

(b) (I) THE COMMISSION SHALL BE SUBJECT TO COLORADO STATUTORY PROVISIONS CONCERNING OPEN MEETINGS, OPEN RECORDS AND DISCLOSURE BY PUBLIC OFFICIALS, GENERALLY REFERRED TO AS COLORADO SUNSHINE LAWS, AS AMENDED FROM TIME TO TIME BY THE GENERAL ASSEMBLY. FOR THE PURPOSE OF THIS COMMISSION, PROPER NOTICE FOR A MEETING OR HEARING OF THE COMMISSION, INCLUDING TIME, PLACE AND AGENDA, SHALL BE POSTED AT LEAST THREE DAYS PRIOR TO SUCH MEETING ON A WEB SITE DEDICATED BY NONPARTISAN STAFF FOR THE PURPOSE OF REDISTRICTING;

(II) A COMMISSIONER WHO ENGAGES IN COMMUNICATIONS, IF SUCH COMMUNICATIONS ARE MADE OUTSIDE OF A COMMISSION'S PROPERLY NOTICED PUBLIC HEARING AND THE COMMUNICATIONS RELATE TO THE MAPPING OF POLITICAL DISTRICTS, SHALL DISCLOSE, AT EACH MEETING, A LIST OF INDIVIDUALS WITH WHOM THEY HAVE HAD SUCH COMMUNICATIONS;

(III) COMMISSIONERS MAY COMMUNICATE WITH ONE ANOTHER ABOUT THE MAPPING OF POLITICAL DISTRICTS PROVIDED THAT COMMUNICATION BETWEEN MORE THAN THREE COMMISSIONERS AT ONE TIME MUST BE PROPERLY NOTICED PURSUANT TO THIS SUBSECTION (I). ~~ASIDE FROM~~ EXCEPT FOR TECHNICAL AND OPERATIONAL MATTERS AND PREPARING FOR THE COMMISSION'S CONSIDERATION AMENDMENTS DRAFTED BY COMMISSIONERS, COMMISSIONERS MAY NOT COMMUNICATE WITH NONPARTISAN STAFF ON THE MAPPING OF POLITICAL DISTRICTS UNLESS THE COMMUNICATION IS DURING A PROPERLY NOTICED MEETING OR

HEARING OF THE COMMISSION;

(IV) ~~NONPARTISAN STAFF MEMBERS ARE NOT PERMITTED TO HAVE EX PARTE COMMUNICATIONS ABOUT THE CONTENT OR DEVELOPMENT OF ANY PLAN SHALL USE THEIR PROFESSIONAL DISCRETION AS THEY COMMUNICATE WITH OTHER LEGISLATIVE STAFF RELATED TO THE MAPPING OF POLITICAL DISTRICTS.~~ COMMUNICATIONS TO AND FROM NONPARTISAN STAFF RELATED TO ADMINISTRATIVE AND OPERATIONAL MATTERS OF MAPPING POLITICAL DISTRICTS AND GENERAL DISCUSSIONS ABOUT THE REDISTRICTING PROCESS ARE NOT PROHIBITED. WORK PRODUCT AND COMMUNICATIONS BETWEEN NONPARTISAN STAFF SHALL BE MADE AVAILABLE SUBJECT TO DISCLOSURE UNDER COLORADO OPEN RECORDS LAWS WHEN THE MAP PLAN TO WHICH THE WORK PRODUCT OR COMMUNICATION RELATES IS PRESENTED TO THE COMMISSION DURING A PROPERLY NOTICED MEETING OR HEARING OF THE COMMISSION;

(V) ANY COMMISSIONER BEING FOUND TO HAVE PARTICIPATED IN COMMUNICATIONS PROHIBITED UNDER THIS SECTION SHALL BE REMOVED FROM THE COMMISSION AND REPLACED WITHIN SEVEN DAYS BY A NEW COMMISSIONER APPOINTED BY THE SAME AUTHORITY HAVING APPOINTED THE COMMISSIONER REMOVED FROM THE COMMISSION;

(VI) NONPARTISAN STAFF SHALL REPORT TO THE COMMISSION ANY ATTEMPTS TO CONDUCT ANY COMMUNICATION PROHIBITED UNDER THIS SECTION AND SHALL REPORT TO THE COMMISSION ANY ATTEMPTS TO EXERT INFLUENCE OVER THE DRAFTING OF PLANS.

(c) NONPARTISAN STAFF SHALL NOT DRAW ANY ~~DISTRICT PLAN~~ FOR THE PURPOSE OF FAVORING A POLITICAL PARTY, INCUMBENT LEGISLATOR, MEMBER OF CONGRESS, OR OTHER PERSON. FOR THE

PURPOSE OF ESTABLISHING FAIR AND COMPETITIVE DISTRICTS, NONPARTISAN STAFF MAY USE AND CONSIDER ELECTION PERFORMANCE DATA.

(3) (a) THE COMMISSION SHALL HOLD PUBLIC HEARINGS ~~shall hold public hearings thereon~~ ON THE PRELIMINARY PLANS IN SEVERAL PLACES THROUGHOUT THE STATE ~~in several places throughout the state~~, INCLUDING AT LEAST THREE HEARINGS IN EACH OF COLORADO'S CONGRESSIONAL DISTRICTS AND AT LEAST TWO HEARINGS WEST OF THE CONTINENTAL DIVIDE, ~~within forty five days after the date of such~~ WITHIN FORTY-FIVE DAYS AFTER THE DATE OF THE PUBLICATION ~~publication~~ OF THE CONGRESSIONAL PLAN. THE COMMISSION SHALL NOT AMEND OR VOTE UPON ANY PRELIMINARY PLAN BUT MAY INSTRUCT NONPARTISAN STAFF ON HOW THE PRELIMINARY PLANS CAN BE ADJUSTED DURING DEVELOPMENT OF INITIAL PLANS. NO LATER THAN TWENTY DAYS AFTER THE CONCLUSION OF THE LAST PUBLIC HEARING, THE NONPARTISAN STAFF SHALL SUBMIT INITIAL PLANS TO THE COMMISSION FOR ITS CONSIDERATION. THE COMMISSION SHALL VOTE ON THE PLANS NOT LESS THAN SEVEN DAYS AFTER THEIR SUBMISSION. IF THE COMMISSION VOTES ON AN INITIAL PLAN AND DOES NOT APPROVE THE PLAN, THE COMMISSION SHALL PROMPTLY PUBLISH AND PROVIDE THE NONPARTISAN STAFF WRITTEN REASONS WHY THE PLAN WAS NOT APPROVED.

(b) IF THE COMMISSION REJECTS A PLAN PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3), THE NONPARTISAN STAFF SHALL PREPARE A SECOND PLAN, ADJUSTING THE MAP ~~PLAN~~ ACCORDING TO THE REASONS CITED BY THE COMMISSION FOR DISAPPROVAL OF THE INITIAL PLAN. IF A SECOND PLAN IS REQUIRED UNDER THIS PARAGRAPH

(b), THE PLAN SHALL BE SUBMITTED TO THE COMMISSION WITHIN TEN DAYS OF THE COMMISSION'S VOTE ON THE PREVIOUS PLAN. THE COMMISSION SHALL VOTE ON THE PLAN NOT LESS THAN SEVEN DAYS AFTER THE PLAN'S SUBMISSION. IF THE COMMISSION VOTES ON A PLAN PURSUANT TO THIS PARAGRAPH (b) AND DOES NOT APPROVE THE PLAN, THE COMMISSION SHALL PROMPTLY PUBLISH AND PROVIDE THE NONPARTISAN STAFF WRITTEN REASONS WHY THE PLAN WAS NOT APPROVED.

(c) IF THE COMMISSION REJECTS A PLAN PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (3), THE NONPARTISAN STAFF SHALL PREPARE A THIRD PLAN, ADJUSTING THE ~~MAP~~PLAN ACCORDING TO THE REASONS CITED BY THE COMMISSION FOR THE DISAPPROVAL OF THE SECOND PLAN. IF A THIRD PLAN IS REQUIRED UNDER THIS PARAGRAPH (c), THE PLAN SHALL BE SUBMITTED TO THE COMMISSION WITHIN TEN DAYS OF THE COMMISSION'S VOTE ON THE PREVIOUS PLAN. THE COMMISSION SHALL VOTE ON THE PLAN NOT LESS THAN SEVEN DAYS AFTER THE PLAN'S SUBMISSION.

(d) IF THE COMMISSION DOES NOT APPROVE A PLAN FOR SENATORIAL DISTRICTS OR REPRESENTATIVE DISTRICTS PURSUANT TO THIS PARAGRAPH (c), THE COMMISSION SHALL SUBMIT THE UNAMENDED SECOND PLAN TO THE SUPREME COURT AS SPECIFIED IN PARAGRAPH (g) OF THIS SUBSECTION (3). IF A PLAN FOR SENATORIAL DISTRICTS OR REPRESENTATIVE DISTRICTS IS NOT DRAFTED PURSUANT TO THIS SUBSECTION (b) OR (c), THEN THE COMMISSION SHALL SUBMIT THE UNAMENDED INITIAL PLAN TO THE SUPREME COURT AS SPECIFIED IN PARAGRAPH (g) OF THIS SUBSECTION (3).

(e) ~~No later than~~ NO LATER THAN OCTOBER 6 OF THAT SAME

~~YEAR the commission shall finalize its plan and~~ THE COMMISSION SHALL FINALIZE EACH PLAN. THE COMMISSION MAY ADJUST THE DEADLINES OF THIS SUBSECTION (3) (a) THROUGH (c) IF CONDITIONS OUTSIDE OF THE COMMISSION'S CONTROL REQUIRE SUCH AN ADJUSTMENT TO ENSURE FINALIZING EACH PLAN AS REQUIRED IN THIS SUBSECTION (e).

(f) THE COMMISSION MAY GRANT NONPARTISAN STAFF THE ABILITY TO MAKE TECHNICAL, DE MINIMUS ADJUSTMENTS TO ANY APPROVED PLAN PRIOR TO ITS SUBMISSION TO THE COLORADO SUPREME COURT.

(g) (I) ~~THE COMMISSION SHALL PROMPTLY SUBMIT THE submit the same PLANS TO THE COLORADO SUPREME COURT FOR REVIEW AND DETERMINATION AS TO COMPLIANCE WITH SECTIONS to the Colorado supreme court for review and determination as to compliance with sections 46, and 47, 47.5 AND 48 OF THIS ARTICLE. SUCH REVIEW AND DETERMINATION of this article. Such review and determination shall take~~ TAKES PRECEDENCE OVER THE OTHER MATTERS BEFORE THE COURT precedence over other matters before the court.

(II) ~~The supreme court shall adopt rules for such proceedings and for the production and presentation of supportive evidence, THE SUPREME COURT SHALL ADOPT RULES FOR SUCH PROCEEDINGS AND FOR THE PRODUCTION AND PRESENTATION OF SUPPORTIVE EVIDENCE, INCLUDING THE RECORD MAINTAINED BY THE COMMISSION, FOR for such plan. Any THE PLANS. LEGAL ARGUMENTS OR EVIDENCE CONCERNING Legal arguments or evidence concerning such plan shall THE PLANS MUST BE SUBMITTED TO THE SUPREME COURT PURSUANT TO THE SCHEDULE ESTABLISHED BY THE COURT; EXCEPT THAT THE FINAL~~

~~SUBMISSION MUST BE MADE NO LATER~~ be submitted to the supreme court pursuant to the schedule established by the court; except that the final submission must be made no later THAN OCTOBER 20 OF THAT SAME YEAR.

(h) (I) ~~The supreme court shall either approve the plan. THE SUPREME COURT SHALL EITHER APPROVE THE PLANS OR RETURN OF~~ return the plan ONE OR MORE PLANS AND THE COURT'S REASONS FOR DISAPPROVAL TO THE COMMISSION. IF A PLAN IS RETURNED and the court's reasons for disapproval to the commission. If the A plan is returned, THE COMMISSION-NONPARTISAN STAFF SHALL PREPARE A MAPPLAN TO CONFORM TO THE COURT'S REQUIREMENTS to conform to the court's requirements. THE COMMISSION MAY REQUEST THAT NONPARTISAN STAFF MAKE ADJUSTMENTS TO THE CONFORMING MAPPLAN. AN APPROVED, CONFORMING MAPPLAN SHALL BE SUBMITTED TO THE COURT WITHIN THE TIME PERIOD SPECIFIED BY THE COURT submitted to the court within the time period specified by the court. ADOPTION OF A PLAN PURSUANT TO THIS SUBPARAGRAPH (I) REQUIRES THE AFFIRMATIVE VOTE OF AT LEAST EIGHT COMMISSIONERS,

(II) IF THE COMMISSION HAS NOT ADOPTED A PLAN FOR SENATORIAL AND REPRESENTATIVE DISTRICTS WITHIN THE TIME PERIOD SPECIFIED BY THE COURT FOR THE COMMISSION TO ACT, THE NONPARTISAN STAFF SHALL SUBMIT THE UNAMENDED CONFORMING MAPPLAN TO THE COURT WITHIN THE TIME PERIOD SPECIFIED BY THE COURT FOR THE COMMISSION TO ACT.

(III) ~~The supreme court shall approve a plan for the redrawing of the districts of the members of the general assembly~~ THE SUPREME COURT SHALL APPROVE EACH REDISTRICTING PLAN BY A DATE THAT



~~WILL ALLOW SUFFICIENT TIME FOR by a date that will allow sufficient time for such plan~~ THE PLANS TO BE FILED WITH THE SECRETARY OF STATE NO LATER THAN ~~to be filed with the secretary of state no later than~~ DECEMBER 15 OF THAT SAME YEAR. THE COURT SHALL ORDER THAT ~~The court shall order that such~~ EACH PLAN BE FILED WITH THE SECRETARY OF STATE NO LATER THAN SUCH DATE. THE COMMISSION SHALL KEEP A PUBLIC RECORD OF ALL THE PROCEEDINGS OF THE COMMISSION AND SHALL BE RESPONSIBLE FOR THE PUBLICATION AND DISTRIBUTION OF COPIES OF EACH PLAN ~~plan be filed with the secretary of state no later than such date. The commission shall keep a public record of all the proceedings of the commission and shall be responsible for the publication and distribution of copies of each plan.~~

(f) (4) The general assembly shall appropriate sufficient funds for the compensation and payment of the expenses of the commission members and any staff employed by it. The commission shall have access to statistical information compiled by the state or its political subdivisions and necessary for its REDISTRICTING duties.

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2:48 P.M.

2015-2016 #107 - Original

Colorado Secretary of State

*Be it Enacted by the People of the State of Colorado:*

SECTION 1. In the constitution of the state of Colorado, **add** section 43.5 to article V as follows:

*Congressional and Legislative Appointments*

**SECTION 43.5. POLITICAL GERRYMANDERING PROHIBITED.**

THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT FAIR REPRESENTATION REQUIRES THAT THE PRACTICE OF POLITICAL GERRYMANDERING, WHEREBY CONGRESSIONAL, AND SENATORIAL DISTRICTS AND REPRESENTATIVE DISTRICTS OF THE GENERAL ASSEMBLY ARE PURPOSEFULLY DRAWN TO FAVOR ONE POLITICAL PARTY OR INCUMBENT POLITICIAN OVER ANOTHER OR TO ACCOMPLISH POLITICAL GOALS, MUST END. THE PUBLIC'S INTERESTS IN PROHIBITING POLITICAL GERRYMANDERING AND IN MAPPING FAIR AND COMPETITIVE CONGRESSIONAL, AND SENATORIAL DISTRICTS AND REPRESENTATIVE DISTRICTS OF THE GENERAL ASSEMBLY IS BEST ACCOMPLISHED BY AN INDEPENDENT COMMISSION OF BALANCED APPOINTMENTS THAT IS FREE FROM POLITICAL INFLUENCE AND THAT THIS SAME INDEPENDENT COMMISSION RELY ON NONPARTISAN LEGISLATIVE STAFF TO DIVIDE THE STATE INTO THESE DISTRICTS WITHOUT REGARD TO POLITICAL PRESSURES OR POLITICAL CONSIDERATIONS.

SECTION 2. In the constitution of the state of Colorado, **amend** section 44 of article V as follows:

**Section 44. Representatives in congress.** The ~~general assembly~~ NONPARTISAN STAFF ASSIGNED TO THE COLORADO REDISTRICTING COMMISSION shall divide the state into as many

congressional districts as there are representatives in congress apportioned to this state by the congress of the United States for the election of one representative to congress from each district. When a new apportionment ~~shall be~~ IS made by congress, the ~~general assembly~~ NONPARTISAN STAFF ASSIGNED TO THE COLORADO REDISTRICTING COMMISSION shall divide the state into congressional districts accordingly.

SECTION 3. In the constitution of the state of Colorado, **amend** section 47 of article V as follows:

**Section 47. ~~Composition of districts~~ CRITERIA – STATE SENATORIAL DISTRICTS AND REPRESENTATIVE DISTRICTS.**

(1) Each district shall be as compact in area as possible and the aggregate linear distance of all district boundaries shall be as short as possible. ~~Each district shall consist of contiguous whole general election precincts.~~ Districts of the same house shall not overlap.

(2) Except when necessary to meet the equal population requirements of section 46, no part of one county shall be added to all or part of another county in forming districts. Within counties whose territory is contained in more than one district of the same house, the number of cities and towns whose territory is contained in more than one district of the same house shall be as small as possible. When county, city, or town boundaries are changed, adjustments, if any, in legislative districts shall be as prescribed by law.

(3) Consistent with the provisions of this section and section 46 of this article, communities of interest, including ethnic, cultural, economic, trade area, geographic, and demographic factors, shall be preserved within a single district wherever possible.

(4) AFTER THE CONSIDERATION OF SUBSECTIONS 1, 2, AND 3 OF THIS SECTION, SECTION 46 OF THIS ARTICLE, AND APPLICABLE LAW, NONPARTISAN STAFF SHALL MAXIMIZE THE NUMBER OF FAIR AND COMPETITIVE SENATORIAL DISTRICTS AND REPRESENTATIVE DISTRICTS.

SECTION 4. In the constitution of the state of Colorado, add section 47.5 of article V as follows:

**Section 47.5 CRITERIA – CONGRESSIONAL DISTRICTS.**

(1) IN ESTABLISHING CONGRESSIONAL DISTRICTS THE NONPARTISAN STAFF:

(a) SHALL UTILIZE THE FOLLOWING FACTORS:

(I) EQUAL POPULATION AS PROVIDED BY LAW;

(II) COMPLIANCE WITH THE FEDERAL “VOTING RIGHTS ACT OF 1965”, IN PARTICULAR 42 U.S.C. SEC. 1973, AND APPLICABLE LAW; AND

(b) MAY, WITHOUT WEIGHT TO ANY FACTOR, UTILIZE FACTORS INCLUDING, BUT NOT LIMITED TO:

(I) THE PRESERVATION OF POLITICAL SUBDIVISIONS SUCH AS COUNTIES, CITIES AND TOWNS. WHEN COUNTY, CITY, OR TOWN BOUNDARIES ARE CHANGED, ADJUSTMENTS, IF ANY, IN DISTRICTS SHALL BE AS PRESCRIBED BY LAW;

(II) THE PRESERVATION OF COMMUNITIES OF INTEREST, INCLUDING ETHNIC, CULTURAL, ECONOMIC, TRADE AREA, GEOGRAPHIC, AND DEMOGRAPHIC FACTORS;

(III) THE COMPACTNESS OF EACH CONGRESSIONAL DISTRICT;  
AND

(IV) THE MINIMIZATION OF DISRUPTION OF PRIOR DISTRICT LINES.

(c) SHALL, AFTER ADHERING TO THE PROVISIONS OF THIS

SUBSECTION (a) AND CONSIDERING THE PROVISIONS OF THIS SUBSECTION (b), MAXIMIZE THE NUMBER OF FAIR AND COMPETITIVE CONGRESSIONAL DISTRICTS.

SECTION 5. In the constitution of the state of Colorado, amend section 48 of article V as follows:

**Section 48. Colorado redistricting commission.** (1) (a) After each federal census of the United States, the COLORADO REDISTRICTING COMMISSION SHALL CONVENE IN ACCORDANCE WITH THIS SECTION. THE DIRECTORS OF THE GENERAL ASSEMBLY'S NONPARTISAN RESEARCH AND LEGAL SERVICES STAFF SHALL ASSIGN MEMBERS FROM HIS OR HER OFFICE TO SERVE AS NONPARTISAN STAFF ASSIGNED TO THE COMMISSION. THESE STAFF MEMBERS ARE REFERRED TO IN THIS ARTICLE AS NONPARTISAN STAFF. NONPARTISAN STAFF SHALL PROPOSE TO THE COMMISSION CONGRESSIONAL DISTRICTS, AND senatorial districts and representative districts ~~shall be established, revised, or altered, and the members of the senate and the house of representatives apportioned among them, by a Colorado reapportionment~~ OF THE GENERAL ASSEMBLY. THE commission ~~consisting~~ SHALL CONSIST of ~~eleven~~ TWELVE members ~~to be~~ appointed and having the qualifications as prescribed in this section. ~~Of such members, four shall be appointed by the legislative department, three by the executive department, and four by the judicial department of the state.~~

(b) ~~The four legislative members shall be the speaker of the house of representatives, the minority leader of the house of representatives, and the majority~~ PRESIDENT OF THE SENATE, and THE minority ~~leaders~~ LEADER of the senate ~~or the designee of any such~~

~~officer to serve in his or her stead, which acceptance of service or designation shall be made~~ SHALL EACH APPOINT TWO MEMBERS FROM HIS OR HER OWN PARTY SO THAT NO MORE THAN FOUR MEMBERS MAY BE REGISTERED WITH THE SAME PARTY FOR A TOTAL OF EIGHT MEMBERS, no later than ~~April 15~~ MARCH 25 of the year following that in which the federal census is taken. ~~The three executive members shall be appointed by the governor between April 15 and April 25 of such year, and the four judicial members shall be appointed by the chief justice of the Colorado supreme court between April 25 and May 5 of such year.~~

(c) THE DIRECTOR OF THE GENERAL ASSEMBLY'S NONPARTISAN RESEARCH STAFF SHALL RECEIVE APPLICATIONS FOR THE FINAL FOUR POSITIONS ON THE COMMISSION AND REVIEW THE APPLICATIONS TO ENSURE THAT THE APPLICANTS MEETS THE CRITERIA OF THIS SUBSECTION (c). THE MEMBERS APPOINTED UNDER THIS SUBSECTION (c) MAY NOT BE, OR HAVE BEEN, AFFILIATED, FOR A PERIOD OF ONE CALENDAR YEAR PRIOR TO THEIR APPOINTMENT, WITH THE SAME POLITICAL PARTY OF ANY MEMBER ALREADY APPOINTED TO THE COMMISSION. THESE FOUR APPOINTMENTS SHALL BE MADE AS FOLLOWS NO LATER THAN APRIL 25 OF THAT SAME YEAR:

(I) (A) THE HIGHEST RANKING ELECTED OFFICIAL WHO IS A MEMBER OF ONE OF THE STATE'S TWO LARGEST PARTIES SHALL APPOINT TWO MEMBERS WHO ARE REGISTERED WITH MINOR PARTIES OR WHO ARE UNAFFILIATED.

(B) THE NEXT HIGHEST RANKING MAJOR PARTY ELECTED OFFICIAL WHO IS A MEMBER OF ONE OF THE STATE'S TWO MAJOR PARTIES OTHER THAN THE OFFICIAL REFERENCED IN SUBSECTION (I)(A) SHALL APPOINT TWO MEMBERS WHO ARE REGISTERED WITH MINOR

PARTIES OR UNAFFILIATED.

(C) THE APPOINTING AUTHORITIES IN THIS SUBSECTION (I) SHALL FOLLOW THE ORDER OF OFFICIALS PURSUANT TO SUBSECTION 7 OF SECTION 13 OF ARTICLE IV OF THIS CONSTITUTION.

~~-(e)~~ (d) Commission members ~~shall~~ MUST be qualified electors of the state of Colorado. COMMISSION MEMBERS MAY NOT BE A REGISTERED LOBBYIST, INCUMBENT MEMBER OF THE GENERAL ASSEMBLY OR CONGRESS, OR A CURRENT CANDIDATE FOR SUCH OFFICE. ~~No more than four commission members shall be members of the general assembly. No more than six commission members shall be affiliated with the same political party.~~ No more than four commission members ~~shall~~ MAY be residents of the same congressional district, and each congressional district ~~shall~~ MUST have at least one resident as a commission member SO LONG AS COLORADO HAS BEEN APPORTIONED NO MORE THAN TWELVE CONGRESSIONAL DISTRICTS. At least one commission member ~~shall~~ MUST reside west of the continental divide.

~~{d}~~ (e) Any vacancy created by the death or resignation of a member, or otherwise, shall be filled by the respective appointing authority. Members of the commission shall hold office until ~~their reappointment and~~ A redistricting plan is implemented OR OTHERWISE REMOVED AS PROVIDED HEREIN. No later than May 15 of the year of their appointment, the governor shall convene the commission and appoint a temporary ~~chairman~~ CHAIRPERSON who shall preside until the commission elects its own officers.

(f) ANY MOTION ADOPTED BY THE COMMISSION, INCLUDING THE ELECTION OF ITS OFFICERS AND APPROVAL OF ANY PLAN, REQUIRES THE AFFIRMATIVE VOTE OF AT LEAST EIGHT COMMISSION MEMBERS, EXCEPT