

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
2017-2018 #68 (“State Legislative
Redistricting”)

**Petitioners: Robert DuRay and Katina
Banks**

v.

**Respondents: Bill Hobbs and Kathleen
Curry**

and

**Title Board: SUZANNE STAIERT;
SHARON EUBANKS; and GLENN
ROPER**

▲ COURT USE ONLY ▲

Attorney for Petitioner:

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Case No. _____

**PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE
SETTING BOARD CONCERNING PROPOSED INITIATIVE 2017-
2018 #68 (“STATE LEGISLATIVE REDISTRICTING”)**

Robert DuRay and Katina Banks (“Petitioners”), registered electors of the State of Colorado, through undersigned counsel, respectfully petition 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 Initiative 2017-2018 #68 (“State Legislative Redistricting”).

STATEMENT OF THE CASE

A. Procedural History of Proposed Initiative 2017-2018 #68

Kathleen Curry and Bill Hobbs (hereafter “Proponents”) proposed Initiative 2017-2018 #68 (the “Proposed Initiative”). 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 November 15, 2017, at which time a title was set for 2017-2018 #68. On November 22, 2017, Petitioners Robert DuRay and Katina Banks filed a Motion for Rehearing, alleging that #68 contained multiple subjects. The rehearing was held on December 6, 2017, at which time the Title Board denied the Motion for Rehearing.

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 initiatives filed by the Proponents; (2) the original ballot titles 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 titles and ballot title and submission clauses set by the Board. Petitioner believes that the Title Board erred in denying certain aspects of the Motion for Rehearing. As such, this matter is properly before this Court.

GROUND FOR APPEAL

The titles set by the Title Board violate the legal requirements imposed on the Board to comply with the single subject requirement in Article V, §1(5.5) of the Colorado Constitution. The following is an advisory list of issues to be addressed in Petitioner's brief:

1. Whether Initiative #68, which creates many new procedures concerning state legislative redistricting, violates the single subject requirement for ballot initiatives by authorizing – as a substantive matter and for the first time – “communities of interest” based on voters’ race or language group, changes that will fundamentally alter the purpose of legislative representation in Colorado.
2. Whether, in light of the Proponents’ undisputed drafting error, Initiative #68 violates the single subject requirement by focusing redistricting protections to be afforded to minority voters on matters that are unrelated to the drawing of district boundaries – such as their right to register to vote, access polling places, and cast ballots.

PRAYER FOR RELIEF

Petitioner respectfully requests that, after consideration of the parties’ briefs, this Court determine that the Title Board lacked jurisdiction to set titles for the Proposed Initiative and order the Board to return this measure to the Proponents, in light of the initiative’s failure to comply with the single subject requirement in the Colorado Constitution.

Respectfully submitted this 13th day of December, 2017.

/s Mark Grueskin

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ATTORNEY FOR PETITIONERS

CERTIFICATE OF SERVICE

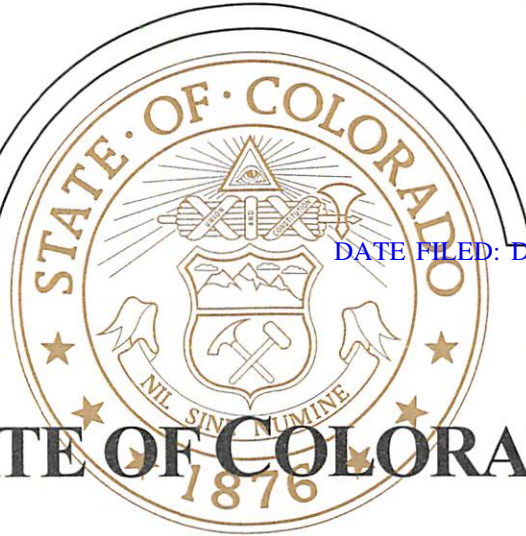
I, Erin Holweger, hereby affirm that a true and accurate copy of the **PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2017-2018 #68 (“STATE LEGISLATIVE REDISTRICTING”)** was sent this day, December 13, 2017, via Colorado Courts Electronic Filing to Counsel for the Title Board and to Counsel for the Proponents at:

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

Benjamin Larson
Ireland Stapleton Pryor & Pascoe, PC
717 17th Street, Suite 2800
Denver, CO 80202

/s Erin Holweger

DATE FILED: December 13, 2017 1:49 PM



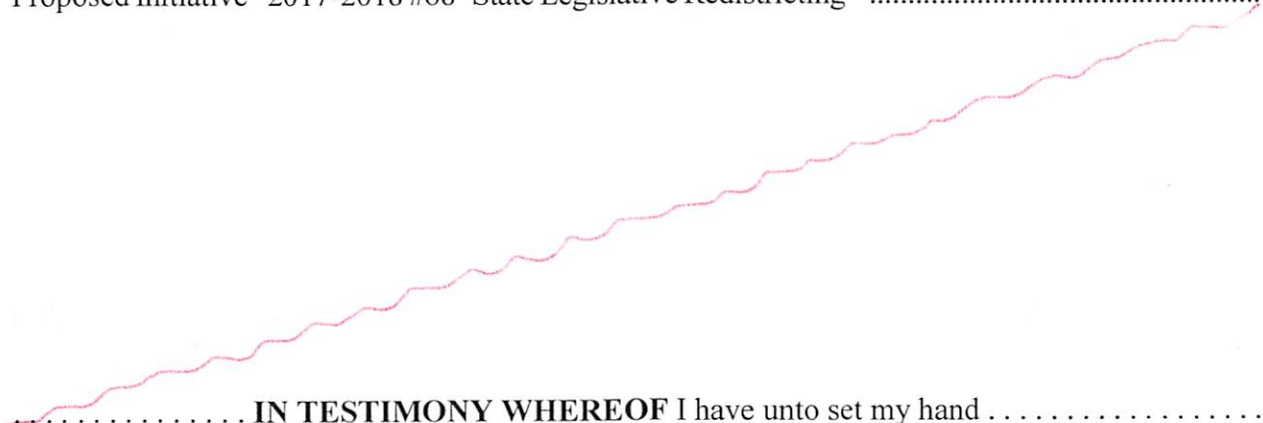
STATE OF COLORADO

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 original text, amended text, final text, initial fiscal impact statement, abstract, motion for rehearing, and the rulings thereon of the Title Board for Proposed Initiative "2017-2018 #68 'State Legislative Redistricting'".....



..... **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 8th day of December, 2017.

Wayne W. Williams

SECRETARY OF STATE



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

SECTION 1. In the constitution of the state of Colorado, amend section 46 of article V as follows:

Section 46. Fair legislative districts for fair elections – legislative declaration. (1) (a) THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT, IN ORDER TO ENSURE FAIR LEGISLATIVE REPRESENTATION IN THE STATE SENATE AND THE STATE HOUSE OF REPRESENTATIVES, THE PRACTICE OF POLITICAL GERRYMANDERING, WHEREBY LEGISLATIVE DISTRICTS ARE PURPOSEFULLY DRAWN TO FAVOR ONE POLITICAL PARTY OR INCUMBENT POLITICIAN OVER ANOTHER, OR TO ACCOMPLISH POLITICAL GOALS, MUST END.

(b) THE PUBLIC'S INTEREST IN PROHIBITING POLITICAL GERRYMANDERING IS BEST ACHIEVED BY CREATING A NEW AND INDEPENDENT COMMISSION THAT IS POLITICALLY BALANCED, PROVIDES REPRESENTATION TO VOTERS NOT AFFILIATED WITH EITHER OF THE STATE'S TWO LARGEST PARTIES, AND UTILIZES NONPARTISAN LEGISLATIVE STAFF TO DIVIDE THE STATE INTO LEGISLATIVE DISTRICTS WITHOUT REGARD TO PARTISAN PRESSURES OR CONSIDERATIONS.

(c) THE PEOPLE FURTHER FIND AND DECLARE THAT THE CITIZENS OF COLORADO ARE BEST SERVED BY DRAWING DISTRICTS USING FAIR CRITERIA, BY DRAWING DISTRICTS THAT DO NOT ADVANTAGE OR DISADVANTAGE ANY POLITICAL PARTY, AND BY MAXIMIZING THE NUMBER OF POLITICALLY COMPETITIVE DISTRICTS.

(d) THE PEOPLE FURTHER FIND AND DECLARE THAT PUBLIC PARTICIPATION IN THE REDISTRICTING PROCESS IS A PRIORITY AND THAT THE INDEPENDENT LEGISLATIVE REDISTRICTING COMMISSION SHOULD ACT TRANSPARENTLY, HOLD ALL HEARINGS IN AN OPEN, PUBLIC FORUM, AFFORD THE PUBLIC AN OPPORTUNITY TO ENGAGE THROUGH PUBLIC COMMENT, AND BE ACCOUNTABLE, REPRESENTATIVE, RESPONSIVE, AND INDEPENDENT.

(2) The state shall be divided into as many senatorial and representative districts as there are members of the senate and house of representatives respectively, each district in each house having a population as nearly equal as may be, as required by the constitution of the United States, but in no event shall there be more than five percent deviation between the most populous and the least populous district in each house.

SECTION 2. In the constitution of the state of Colorado, amend section 47 of article V as follows:

Section 47. Composition of 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~~ SECTION 46 (2) OF THIS ARTICLE V, 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~~ SECTION 46 (2) of this article V, communities of interest, including RACIAL, ethnic, LANGUAGE GROUP, cultural, economic, trade area, geographic, and demographic factors, shall be preserved within a single district wherever possible.

(4) (a) IN DEVELOPING A PLAN FOR REDRAWING THE DISTRICTS OF THE MEMBERS OF THE GENERAL ASSEMBLY, THE INDEPENDENT LEGISLATIVE REDISTRICTING COMMISSION SHALL COMPLY WITH THE FEDERAL "VOTING RIGHTS ACT OF 1965", IN PARTICULAR 52 U.S.C. SEC. 10101.

(b) TO THE EXTENT POSSIBLE AFTER MEETING THE OTHER REQUIREMENTS OF THIS SECTION, THE COMMISSION SHALL MAXIMIZE THE NUMBER OF POLITICALLY COMPETITIVE LEGISLATIVE DISTRICTS.

(c) LEGISLATIVE REDISTRICTING PLANS SHALL NOT BE DRAWN TO PURPOSEFULLY ADVANTAGE OR DISADVANTAGE ANY POLITICAL PARTY OR PERSON.

SECTION 3. In the constitution of the state of Colorado, repeal and reenact, with amendments, section 48 of article V as follows:

Section 48. Revision and alteration of districts – independent legislative redistricting commission. (1) THE RESPONSIBILITY OF DIVIDING THE STATE INTO SENATORIAL AND REPRESENTATIVE DISTRICTS SHALL BE CARRIED OUT BY AN INDEPENDENT COMMISSION TO BE KNOWN AS THE INDEPENDENT LEGISLATIVE REDISTRICTING COMMISSION, WHICH IS HEREBY CREATED AND REFERRED TO IN THIS SECTION AND SECTIONS 48.3 AND 48.5 OF THIS ARTICLE V AS THE "COMMISSION". THE MEMBERS OF THE COMMISSION SHALL BE APPOINTED AS PRESCRIBED IN THIS SECTION IN THE YEAR FOLLOWING THAT IN WHICH THE FEDERAL CENSUS IS TAKEN. SUCH YEAR

IS REFERRED TO AS THE "REDISTRICTING YEAR" IN THIS SECTION AND SECTIONS 48.3 AND 48.5 OF THIS ARTICLE V.

(2) THE COMMISSION CONSISTS OF TWELVE MEMBERS WHO HAVE THE FOLLOWING QUALIFICATIONS:

(a) FOUR MEMBERS MUST BE REGISTERED WITH THE STATE'S LARGEST POLITICAL PARTY AND SHALL BE APPOINTED IN ACCORDANCE WITH SUBSECTION (6) OF THIS SECTION.

(b) FOUR MEMBERS MUST BE REGISTERED WITH THE STATE'S SECOND LARGEST POLITICAL PARTY AND SHALL BE APPOINTED IN ACCORDANCE WITH SUBSECTION (6) OF THIS SECTION.

(c) FOR A CONTINUOUS PERIOD BEGINNING WITH THE DATE OF THE GENERAL ELECTION IMMEDIATELY PRIOR TO THE MOST RECENT GENERAL ELECTION AND THROUGH THE DATE OF THE MEMBER'S APPOINTMENT, FOUR MEMBERS MUST HAVE EACH BEEN UNAFFILIATED WITH ANY POLITICAL PARTY OR REGISTERED WITH A POLITICAL PARTY OTHER THAN THE STATE'S TWO LARGEST POLITICAL PARTIES. SUCH MEMBERS ARE REFERRED TO IN THIS SECTION AND SECTIONS 48.3 AND 48.5 OF THIS ARTICLE V AS THE "INDEPENDENT MEMBERS" OF THE COMMISSION OR THE "INDEPENDENT COMMISSIONERS". THE INDEPENDENT MEMBERS SHALL BE APPOINTED IN ACCORDANCE WITH SUBSECTION (7) OF THIS SECTION.

(3) ALL COMMISSIONERS MUST BE REGISTERED ELECTORS OF THE STATE OF COLORADO. NO COMMISSIONER MAY BE AN INCUMBENT MEMBER OF THE GENERAL ASSEMBLY OR A CANDIDATE FOR THE GENERAL ASSEMBLY.

(4) (a) NO MORE THAN THREE MEMBERS OF THE COMMISSION MAY RESIDE IN ANY SINGLE CONGRESSIONAL DISTRICT. AT LEAST ONE MEMBER MUST RESIDE IN EACH CONGRESSIONAL DISTRICT.

(b) AT LEAST ONE MEMBER OF THE COMMISSION MUST RESIDE IN EACH OF THE FOLLOWING TWO AREAS OF THE STATE, AND ANY REFERENCE IN THIS SECTION TO A "GEOGRAPHIC AREA" REFERS TO THESE AREAS:

(I) WEST OF THE CONTINENTAL DIVIDE; AND

(II) EAST OF THE CONTINENTAL DIVIDE AND EITHER SOUTH OF EL PASO COUNTY'S SOUTHERN BOUNDARY OR EAST OF ARAPAHOE COUNTY'S EASTERN BOUNDARY.

(5) ALL APPOINTEES TO THE COMMISSION SHALL BE SUBJECT TO AN APPLICATION PROCESS AS FOLLOWS:

(a) NO LATER THAN FEBRUARY 1 OF THE REDISTRICTING YEAR, THE SECRETARY OF STATE SHALL ESTABLISH AND ANNOUNCE AN APPLICATION PROCESS FOR PERSONS DESIRING TO SERVE AS MEMBERS OF THE COMMISSION. THE PROCESS MUST INCLUDE AN APPLICATION FORM THAT MUST BE SUBMITTED ELECTRONICALLY TO THE SECRETARY OF STATE. IN ADDITION, THE SECRETARY OF STATE SHALL CONSULT AND COORDINATE WITH THE STATE'S COUNTY CLERK AND RECORDERS TO DEVELOP AND IMPLEMENT A PROGRAM TO ADVERTISE AND ENCOURAGE APPLICATIONS FROM ELIGIBLE PERSONS FROM ACROSS THE STATE.

(b) THE APPLICATION FORM MUST CLEARLY STATE LEGAL OBLIGATIONS AND EXPECTATIONS OF POTENTIAL APPOINTEES. INFORMATION REQUIRED OF APPLICANTS MUST INCLUDE, BUT NOT NECESSARILY BE LIMITED TO, PROFESSIONAL BACKGROUND, PARTY AFFILIATION, A DESCRIPTION OF PAST POLITICAL ACTIVITY, AND A LIST OF POLITICAL AND CIVIC ORGANIZATIONS TO WHICH THE APPLICANT HAS BELONGED WITHIN THE PREVIOUS FIVE YEARS. IN ADDITION, THE APPLICATION FORM MUST REQUIRE THE APPLICANT TO EXPLAIN WHY THE APPLICANT WANTS TO SERVE ON THE COMMISSION AND AFFORD APPLICANTS AN OPPORTUNITY TO MAKE A STATEMENT ABOUT HOW THE APPLICANT WILL PROMOTE CONSENSUS AMONG COMMISSIONERS IF APPOINTED TO THE COMMISSION. APPLICANTS MAY ALSO CHOOSE TO INCLUDE UP TO FOUR LETTERS OF RECOMMENDATION WITH THEIR APPLICATION.

(c) APPLICATIONS MUST BE SUBMITTED NO LATER THAN MARCH 10 OF THE REDISTRICTING YEAR. WITHIN THREE BUSINESS DAYS AFTER MARCH 10, THE SECRETARY OF STATE SHALL POST ALL APPLICATIONS ON THE SECRETARY OF STATE'S WEBSITE.

(6) APPOINTMENTS OF MEMBERS REGISTERED WITH THE STATE'S TWO LARGEST POLITICAL PARTIES MUST BE MADE FROM THE APPLICANTS WHO SUBMITTED APPLICATIONS TO THE SECRETARY OF STATE. NO APPOINTEE MAY RESIDE IN THE SAME CONGRESSIONAL DISTRICT OR THE SAME GEOGRAPHIC AREA AS ANY PREVIOUS APPOINTEE UNTIL ONE APPOINTMENT HAS BEEN MADE FROM EACH CONGRESSIONAL DISTRICT AND EACH GEOGRAPHIC AREA. FOR EACH APPOINTMENT, THE APPOINTING AUTHORITY MUST DESIGNATE ONE ALTERNATE WHO RESIDES IN THE SAME CONGRESSIONAL DISTRICT OR GEOGRAPHIC AREA AS THE APPOINTEE FOR WHOM HE OR SHE IS AN ALTERNATE. IF ANY OF THE EIGHT APPOINTMENTS MADE ACCORDING TO THIS SUBSECTION (6) VACATES HIS OR HER POSITION AT ANY TIME DURING HIS OR HER TERM, SUCH VACANCY SHALL BE FILLED BY THE DESIGNATED ALTERNATE. IF ANY APPOINTING AUTHORITY FAILS TO MAKE HIS OR HER APPOINTMENT BY A DATE REQUIRED IN THIS SUBSECTION (6), THEN SUCH APPOINTMENT IS

FORFEITED, AND THE NUMBER OF COMMISSIONERS COMPRISING THE COMMISSION IS REDUCED ACCORDINGLY. APPOINTMENTS MUST BE MADE ACCORDING TO THE FOLLOWING SCHEDULE IN THE REDISTRICTING YEAR:

(a) NO LATER THAN MARCH 18, THE SENATE MAJORITY LEADER SHALL APPOINT ONE MEMBER AND DESIGNATE ONE ALTERNATE.

(b) BETWEEN MARCH 19 AND MARCH 21, THE SENATE MINORITY LEADER SHALL APPOINT ONE MEMBER AND DESIGNATE ONE ALTERNATE.

(c) BETWEEN MARCH 22 AND MARCH 24, THE HOUSE MAJORITY LEADER SHALL APPOINT ONE MEMBER AND DESIGNATE ONE ALTERNATE.

(d) BETWEEN MARCH 25 AND MARCH 28, THE HOUSE MINORITY LEADER SHALL APPOINT TWO MEMBERS AND DESIGNATE TWO ALTERNATES.

(e) BETWEEN MARCH 29 AND MARCH 31, THE HOUSE MAJORITY LEADER SHALL APPOINT ONE MEMBER AND DESIGNATE ONE ALTERNATE.

(f) BETWEEN APRIL 1 AND APRIL 3, THE SENATE MINORITY LEADER SHALL APPOINT ONE MEMBER AND DESIGNATE ONE ALTERNATE.

(g) BETWEEN APRIL 4 AND APRIL 6, THE SENATE MAJORITY LEADER SHALL APPOINT ONE MEMBER AND ONE ALTERNATE.

(7) INDEPENDENT APPOINTEES TO THE COMMISSION SHALL BE SELECTED AS FOLLOWS:

(a) NO LATER THAN APRIL 1, THE SECRETARY OF STATE SHALL EXAMINE EACH APPLICATION FOR APPOINTMENT AS AN INDEPENDENT MEMBER OF THE COMMISSION, ISSUE AN ELIGIBILITY FINDING WHETHER THE APPLICANT MEETS THE QUALIFICATION SPECIFIED IN SUBSECTIONS (2)(c) AND (3) OF THIS SECTION, POST THE FINDING ON THE SECRETARY OF STATE'S WEBSITE, AND NOTIFY THE APPLICANT BY ELECTRONIC MAIL OF THE SECRETARY OF STATE'S FINDING. IF THE SECRETARY OF STATE FINDS THAT AN APPLICANT IS NOT ELIGIBLE, THEN THE SECRETARY OF STATE SHALL INCLUDE THE REASONS THEREFOR IN HIS OR HER FINDING. IF THE SECRETARY OF STATE FINDS THAT AN APPLICANT IS NOT ELIGIBLE, THE APPLICANT MAY WITHDRAW HIS OR HER APPLICATION OR SUBMIT A BRIEF STATEMENT DISPUTING THE FINDING WITHIN THREE BUSINESS DAYS AFTER THE DATE OF THE SECRETARY OF STATE'S ELECTRONIC MAIL NOTIFICATION, WHICH STATEMENT SHALL BE POSTED PROMPTLY WITH THE SECRETARY OF STATE'S FINDING. IF AN APPLICANT SUBMITS A STATEMENT DISPUTING THE SECRETARY OF STATE'S FINDING OF INELIGIBILITY, THE APPLICANT MAY BE

CONSIDERED BY THE PANEL IN ACCORDANCE WITH SUBSECTION (7)(d) OF THIS SECTION IF THE PANEL DETERMINES THAT THE APPLICANT IS ELIGIBLE.

(b) NO LATER THAN MARCH 20 OF THE REDISTRICTING YEAR, THE SECRETARY OF STATE SHALL DESIGNATE A PANEL TO REVIEW THE APPLICATIONS FOR APPOINTMENT AS AN INDEPENDENT MEMBER OF THE COMMISSION. THE PANEL MUST CONSIST OF THE THREE JUSTICES OR JUDGES WHO MOST RECENTLY RETIRED FROM THE COLORADO SUPREME COURT OR THE COLORADO COURT OF APPEALS, APPOINTED SEQUENTIALLY STARTING WITH THE MOST RECENT JUSTICE OR JUDGE TO RETIRE WHO HAS BEEN AFFILIATED WITH THE SAME POLITICAL PARTY OR UNAFFILIATED WITH ANY POLITICAL PARTY FOR THE TWO YEARS PRIOR TO APPOINTMENT, EXCEPT THAT NO APPOINTEE, WITHIN TWO YEARS PRIOR TO APPOINTMENT, SHALL HAVE BEEN AFFILIATED WITH THE SAME POLITICAL PARTY AS A JUSTICE OR JUDGE ALREADY APPOINTED TO THE PANEL. IF ANY OF THE THREE JUSTICES OR JUDGES WHO MOST RECENTLY RETIRED FROM THE COLORADO SUPREME COURT OR THE COLORADO COURT OF APPEALS IS UNABLE OR UNWILLING TO SERVE ON THE PANEL OR HAS BEEN AFFILIATED WITHIN TWO YEARS PRIOR TO APPOINTMENT WITH A POLITICAL PARTY ALREADY REPRESENTED ON THE PANEL, THEN THE SECRETARY OF STATE SHALL APPOINT THE NEXT JUSTICE OR JUDGE WHO MOST RECENTLY RETIRED FROM THE COLORADO SUPREME COURT OR THE COLORADO COURT OF APPEALS AND WHO HAS NOT BEEN AFFILIATED WITHIN TWO YEARS PRIOR TO APPOINTMENT WITH THE SAME POLITICAL PARTY AS ANY JUSTICE OR JUDGE ALREADY APPOINTED TO THE PANEL. IF, AFTER CONSIDERING ALL JUSTICES AND JUDGES WHO HAVE RETIRED FROM THE COLORADO SUPREME COURT AND THE COLORADO COURT OF APPEALS, FEWER THAN THREE ELIGIBLE PARTICIPANTS FOR THE PANEL HAVE BEEN IDENTIFIED, THE SECRETARY OF STATE SHALL APPOINT THE MOST RECENTLY RETIRED DISTRICT COURT JUDGE WHO HAS NOT BEEN AFFILIATED WITHIN TWO YEARS PRIOR TO APPOINTMENT WITH THE SAME POLITICAL PARTY AS ANY PREVIOUS APPOINTEE TO THE PANEL AND WHO ACCEPTS SUCH APPOINTMENT. UPON REQUEST OF THE SECRETARY OF STATE, THE STATE COURT ADMINISTRATOR SHALL PROVIDE INFORMATION ABOUT JUSTICES AND JUDGES WHO RECENTLY RETIRED FROM THE COLORADO SUPREME COURT, THE COLORADO COURT OF APPEALS, AND THE STATE'S DISTRICT COURTS AS MAY BE NECESSARY FOR THE SECRETARY OF STATE TO PERFORM HIS OR HER DUTIES UNDER THIS SUBSECTION (7)(b).

(c) THE SECRETARY OF STATE SHALL REIMBURSE MEMBERS OF THE PANEL FOR NECESSARY TRAVEL AND OTHER REASONABLE EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES AND SHALL COMPENSATE MEMBERS OF THE PANEL FOR EACH DAY THAT THE PANEL MEETS IN AN AMOUNT

EQUAL TO ONE-TWENTIETH OF THE MONTHLY SALARY THEN CURRENTLY APPLICABLE TO ASSOCIATE JUSTICES OF THE COLORADO SUPREME COURT. SUCH REIMBURSEMENT AND COMPENSATION MUST NOT AFFECT A MEMBER'S JUDICIAL SERVICE RETIREMENT BENEFITS.

(d) IN ONE OR MORE PUBLIC HEARINGS OPEN TO PUBLIC TESTIMONY AND CONDUCTED IN ACCORDANCE WITH PROCEDURES DETERMINED BY THE PANEL, THE PANEL SHALL SELECT TWENTY ELIGIBLE APPLICANTS IT UNANIMOUSLY RECOMMENDS FOR APPOINTMENT AS INDEPENDENT MEMBERS OF THE COMMISSION, OR SUCH LESSER NUMBER AS THERE ARE TOTAL ELIGIBLE APPLICANTS. THE NONPARTISAN RESEARCH STAFF OF THE GENERAL ASSEMBLY SHALL PROVIDE STAFF ASSISTANCE TO THE PANEL FOR SUCH MEETINGS UPON THE REQUEST OF ANY MEMBER OF THE PANEL. THE PANEL MAY DETERMINE THE ELIGIBILITY OF ANY APPLICANT WHOSE QUALIFICATIONS UNDER SUBSECTIONS (2)(c) AND (3) OF THIS SECTION ARE IN QUESTION. THE PANEL SHALL, TO THE EXTENT PRACTICAL, RECOMMEND APPLICANTS WHO REPRESENT COLORADO'S RACIAL, ETHNIC, GENDER, AND GEOGRAPHIC DIVERSITY, TAKING INTO CONSIDERATION THE GEOGRAPHIC REPRESENTATION REQUIREMENTS OF SUBSECTION (4) OF THIS SECTION AND THE GEOGRAPHIC REPRESENTATION OF THE EIGHT COMMISSIONERS PREVIOUSLY APPOINTED BY THE SENATE MAJORITY LEADER, THE SENATE MINORITY LEADER, THE HOUSE MAJORITY LEADER, AND THE HOUSE MINORITY LEADER. TO THE EXTENT POSSIBLE, THE PANEL SHALL RECOMMEND NO FEWER THAN THREE APPLICANTS FROM EACH UNREPRESENTED CONGRESSIONAL DISTRICT AND EACH UNREPRESENTED GEOGRAPHIC AREA. ADDITIONALLY, THE PANEL SHALL RECOMMEND THOSE APPLICANTS WHO IT FINDS TO BE MOST QUALIFIED TO PERFORM THE DUTIES OF THE COMMISSION, WHO DO NOT DEMONSTRATE ALLEGIANCE OR FIDELITY TO EITHER OF THE STATE'S TWO LARGEST POLITICAL PARTIES, WHO ARE BEST ABLE TO NEUTRALLY APPLY AND ADMINISTER THEIR RESPONSIBILITIES AS COMMISSIONERS, AND WHO ARE MOST LIKELY TO PROMOTE CONSENSUS AMONG COMMISSIONERS. MEMBERS OF THE PANEL SHALL HAVE NO EX PARTE COMMUNICATIONS REGARDING THE PERFORMANCE OF THEIR DUTIES UNDER THIS SUBSECTION (7)(d).

(e) THE PANEL SHALL ISSUE ITS RECOMMENDATIONS NO LATER THAN APRIL 23 OF THE REDISTRICTING YEAR. THE PANEL SHALL FORWARD ITS RECOMMENDATIONS TO THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL, THE SENATE MAJORITY LEADER, THE SENATE MINORITY LEADER, THE HOUSE MAJORITY LEADER, THE HOUSE MINORITY LEADER, AND THE SECRETARY OF STATE, WHO SHALL PROMPTLY POST THE PANEL'S RECOMMENDATIONS ON THE SECRETARY OF STATE'S WEBSITE.

(f) NO LATER THAN APRIL 30 OF THE REDISTRICTING YEAR, THE SECRETARY OF STATE SHALL, IN A PUBLIC MEETING HELD AFTER NOTICE, RANDOMLY SELECT THE FOUR INDEPENDENT MEMBERS FROM THE APPLICANTS RECOMMENDED BY THE PANEL AS FOLLOWS:

(I) FOR EACH CONGRESSIONAL DISTRICT OR GEOGRAPHIC AREA UNREPRESENTED BY THE EIGHT APPOINTMENTS MADE BY THE SENATE MAJORITY LEADER, THE SENATE MINORITY LEADER, THE HOUSE MAJORITY LEADER, AND THE HOUSE MINORITY LEADER, THE SECRETARY OF STATE SHALL RANDOMLY SELECT THE NAME OF ONE APPLICANT FROM ALL RECOMMENDED APPLICANTS WHO RESIDE IN THAT CONGRESSIONAL DISTRICT OR GEOGRAPHIC AREA TO SERVE AS AN APPOINTEE TO THE COMMISSION. THE NAMES OF RECOMMENDED APPLICANTS NOT SELECTED MUST THEN BE INCLUDED IN THE POOL OF RECOMMENDED APPLICANTS FOR FURTHER CONSIDERATION PURSUANT TO SUBSECTION (7)(f)(II) OF THIS SECTION.

(II) FROM AMONG THE APPLICANTS REMAINING AFTER COMPLETING THE SELECTION OF INDEPENDENT MEMBERS PURSUANT TO SUBSECTION (7)(f)(I) OF THIS SECTION, THE SECRETARY OF STATE SHALL RANDOMLY SELECT SUCH NUMBER OF APPLICANTS AS NECESSARY SO THAT THE TOTAL NUMBER OF SELECTIONS MADE PURSUANT TO THIS SUBSECTION (7)(f) TOTALS FOUR; EXCEPT THAT, IF THE SELECTION OF ANY APPLICANT WOULD RESULT IN MORE THAN THREE COMMISSIONERS RESIDING IN A SINGLE CONGRESSIONAL DISTRICT, CONTRARY TO SECTION 48 (4)(a) OF THIS ARTICLE V, THEN THE SECRETARY OF STATE SHALL DISCARD THAT SELECTION AND CONTINUE TO RANDOMLY SELECT APPLICANTS UNTIL THE TOTAL NUMBER OF SELECTIONS MADE PURSUANT TO THIS SUBSECTION (7)(f) TOTALS FOUR AND NO MORE THAN THREE COMMISSIONERS RESIDE IN A SINGLE CONGRESSIONAL DISTRICT. THE FOUR APPLICANTS CHOSEN UPON CONCLUSION OF THE PROCESS DESCRIBED IN THIS SUBSECTION (7)(f) SHALL BECOME THE INDEPENDENT COMMISSIONERS.

(III) THE SECRETARY OF STATE SHALL THEN RANDOMLY SELECT FOUR ADDITIONAL NAMES FROM THE REMAINING APPLICANTS. THESE FOUR APPLICANTS SHALL SERVE AS ALTERNATES AND SHALL BE NUMBERED CONSECUTIVELY AS ALTERNATE ONE, ALTERNATE TWO, ALTERNATE THREE, AND ALTERNATE FOUR. THE ALTERNATES SHALL, IN ORDER AND IRRESPECTIVE OF CONGRESSIONAL DISTRICT OR GEOGRAPHIC AREA, FILL ANY VACANCIES BY THE INDEPENDENT COMMISSIONERS DURING THEIR TERMS.

(8) FOR PURPOSES OF THIS SECTION, THE STATE'S TWO LARGEST POLITICAL PARTIES SHALL BE DETERMINED BY THE NUMBER OF REGISTERED ELECTORS AFFILIATED WITH EACH POLITICAL PARTY IN THE STATE ACCORDING TO VOTER REGISTRATION DATA PUBLISHED BY THE SECRETARY OF STATE

FOR THE EARLIEST DAY IN JANUARY OF THE REDISTRICTING YEAR FOR WHICH SUCH DATA IS PUBLISHED.

SECTION 4. In the constitution of the state of Colorado, add sections 48.3 and 48.5 to article V as follows:

Section 48.3. Commission organization – procedures – transparency – voting requirements. (1) THE GOVERNOR SHALL CONVENE THE COMMISSION NO LATER THAN MAY 15 OF THE REDISTRICTING YEAR, APPOINTING A TEMPORARY CHAIRPERSON FROM THE COMMISSION'S MEMBERS. UPON CONVENING, THE COMMISSION SHALL ELECT A CHAIR AND A VICE-CHAIR, WHO MUST NOT BE MEMBERS OF THE SAME POLITICAL PARTY, AND SUCH OTHER OFFICERS AS IT DETERMINES.

(2) THE DIRECTORS OF THE NONPARTISAN RESEARCH AND LEGAL STAFFS OF THE GENERAL ASSEMBLY SHALL APPOINT NONPARTISAN STAFF FROM THEIR RESPECTIVE OFFICES AS NEEDED TO ASSIST THE COMMISSION. AS FAR IN ADVANCE AS NECESSARY TO ENABLE THE COMMISSION TO BEGIN ITS WORK IMMEDIATELY UPON CONVENING, THE NONPARTISAN STAFF SHALL ACQUIRE AND PREPARE ALL NECESSARY RESOURCES, INCLUDING HARDWARE, SOFTWARE, AND DEMOGRAPHIC, GEOGRAPHIC, AND POLITICAL DATABASES.

(3) THE COMMISSION MAY RETAIN LEGAL COUNSEL IN ALL ACTIONS AND PROCEEDINGS IN CONNECTION WITH THE PERFORMANCE OF ITS POWERS, DUTIES, AND FUNCTIONS, INCLUDING REPRESENTATION OF THE COMMISSION BEFORE THE SUPREME COURT PURSUANT TO SECTION 48.5 (7) OF THIS ARTICLE V.

(4) THE GENERAL ASSEMBLY SHALL APPROPRIATE SUFFICIENT FUNDS FOR THE COMPENSATION AND PAYMENT OF THE EXPENSES OF THE COMMISSION AND ITS STAFF. SUBJECT TO AVAILABLE APPROPRIATIONS, HARDWARE AND SOFTWARE NECESSARY FOR THE DEVELOPMENT OF PLANS MAY, AT THE REQUEST OF ANY COMMISSIONER, BE PROVIDED TO SUCH COMMISSIONER. THE COMMISSION AND ITS STAFF SHALL HAVE ACCESS TO STATISTICAL INFORMATION COMPILED BY THE STATE AND ITS POLITICAL SUBDIVISIONS AND NECESSARY FOR ITS DUTIES. STATE AGENCIES AND POLITICAL SUBDIVISIONS SHALL COMPLY WITH REQUESTS FROM THE COMMISSION AND ITS STAFF FOR SUCH STATISTICAL INFORMATION.

(5) THE COMMISSION SHALL ADOPT RULES TO GOVERN ITS ADMINISTRATION AND OPERATION, INCLUDING BUT NOT LIMITED TO THE FOLLOWING:

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

(b) THE PROCESS FOR REMOVING COMMISSIONERS FOR VIOLATING PUBLIC DISCLOSURE OR OPEN MEETINGS PROVISIONS OF THIS SECTION, OR PARTICIPATING IN COMMUNICATIONS PROHIBITED UNDER THIS SECTION;

(c) PROVIDING FOR ANY VACANCY CREATED BY THE DEATH, RESIGNATION, OR REMOVAL OF A COMMISSIONER, OR OTHERWISE, WHICH SHALL BE FILLED BY THE ALTERNATE DETERMINED AS PROVIDED IN SECTION 48 OF THIS ARTICLE V, OR IF SUCH ALTERNATE IS UNWILLING OR UNABLE TO SERVE, BY THE RESPECTIVE APPOINTING AUTHORITY. MEMBERS OF THE COMMISSION SHALL HOLD OFFICE UNTIL APRIL 30 OF THE NEXT REDISTRICTING YEAR.

(d) THE PROCESS FOR RECOMMENDING CHANGES TO PLANS SUBMITTED TO THE COMMISSION BY NONPARTISAN STAFF; AND

(e) THE ADOPTION OF A STATEWIDE MEETING AND HEARING SCHEDULE.

(6) (a) EXCEPT AS PROVIDED IN SUBSECTION (6)(b) OF THIS SECTION, THE COMMISSION IS SUBJECT TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, COLORADO REVISED STATUTES, OR ANY SUCCESSOR ACT.

(b) MAPS IN DRAFT FORM AND NOT SUBMITTED TO THE COMMISSION ARE NOT PUBLIC RECORDS SUBJECT TO DISCLOSURE. WORK PRODUCT AND COMMUNICATIONS BETWEEN COMMISSION STAFF ARE SUBJECT TO DISCLOSURE ONCE A PLAN IS SUBMITTED TO THE SUPREME COURT.

(7) (a) THE COMMISSION IS SUBJECT TO THE OPEN MEETINGS PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972" CONTAINED IN PART 4 OF ARTICLE 6 OF TITLE 24, COLORADO REVISED STATUTES, OR ANY SUCCESSOR ACT. FURTHERMORE, COMMUNICATIONS OUTSIDE OF A PUBLIC MEETING RELATING TO COMMISSION BUSINESS THAT INVOLVE MORE THAN THREE COMMISSIONERS ARE PROHIBITED.

(b) EXCEPT AS PROVIDED IN SUBSECTIONS (7)(c) AND (7)(d) OF THIS SECTION, COMMISSIONERS SHALL NOT COMMUNICATE WITH THE COMMISSION'S STAFF ON THE MAPPING OF LEGISLATIVE DISTRICTS UNLESS THE COMMUNICATION IS DURING A PUBLIC MEETING OR HEARING OF THE COMMISSION.

(c) EXCEPT FOR PUBLIC INPUT AND COMMENT SUCH AS IS PROVIDED FOR IN SECTION 48.5 (1)(c) AND SECTION 48.5 (4) OF THIS ARTICLE V, THE COMMISSION'S STAFF MEMBERS SHALL NOT HAVE ANY COMMUNICATIONS ABOUT THE CONTENT OR DEVELOPMENT OF ANY PLAN OUTSIDE OF PUBLIC HEARINGS WITH ANYONE EXCEPT OTHER STAFF MEMBERS. STAFF SHALL REPORT TO THE COMMISSION ANY ATTEMPT BY ANYONE TO EXERT INFLUENCE OVER THE DRAFTING OF PLANS.

(d) ONE OR MORE STAFF MAY BE DESIGNATED TO COMMUNICATE WITH COMMISSIONERS REGARDING ADMINISTRATIVE MATTERS, THE DEFINITION AND SCOPE OF WHICH SHALL BE DETERMINED BY THE COMMISSION.

(e) ANY COMMISSIONER WHO PARTICIPATES IN A COMMUNICATION PROHIBITED IN THIS SECTION SHALL BE REMOVED FROM THE COMMISSION AND REPLACED WITHIN SEVEN DAYS ACCORDING TO COMMISSION RULES.

(f) AT THE DIRECTION OF THE COMMISSION, ITS STAFF MAY CONSULT WITH EXPERTS RETAINED BY THE COMMISSION. WORK PRODUCT AND COMMUNICATIONS BETWEEN COMMISSION STAFF AND SUCH EXPERTS ARE SUBJECT TO DISCLOSURE UNDER THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, COLORADO REVISED STATUTES, OR ANY SUCCESSOR ACT, ONCE A PLAN IS SUBMITTED TO THE SUPREME COURT.

(8) ANY PERSON WHO RECEIVES COMPENSATION FOR ADVOCATING TO THE COMMISSION OR ITS MEMBERS CONCERNING THE ADOPTION OF ANY PLAN, ANY AMENDMENT TO A PLAN, PLAN APPROACH, OR MANNER OF COMPLIANCE WITH ANY OF THE PLAN CRITERIA SET FORTH IN SECTION 47 OF THIS ARTICLE V, OTHER THAN COMMISSION STAFF, IS A "PROFESSIONAL LOBBYIST" AS DEFINED IN SECTION 24-6-301(6), COLORADO REVISED STATUTES, OR ANY SUCCESSOR STATUTE, AND SHALL COMPLY WITH THE REQUIREMENTS APPLICABLE TO PROFESSIONAL LOBBYISTS, INCLUDING REGISTRATION AND FILING DISCLOSURE STATEMENTS, CONTAINED IN PART 3 OF ARTICLE 6 OF TITLE 24, COLORADO REVISED STATUTES, OR ANY SUCCESSOR STATUTES.

(9) ANY MOTION ADOPTED BY THE COMMISSION, INCLUDING THE ELECTION OF ITS OFFICERS AND THE AMENDMENT OF ANY PLAN, REQUIRES THE AFFIRMATIVE VOTE OF AT LEAST EIGHT COMMISSIONERS, INCLUDING THE AFFIRMATIVE VOTE OF AT LEAST ONE INDEPENDENT COMMISSIONER. APPROVAL OF THE PRELIMINARY PLAN PURSUANT TO SECTION 48.5 (2) OF THIS ARTICLE V, ADOPTION OF THE FINAL PLAN FOR SUBMISSION TO THE SUPREME COURT PURSUANT TO SECTION 48.5 (6) OF THIS ARTICLE V, AND ADOPTION OF A REVISED PLAN PURSUANT TO SECTION 48.5

(7) OF THIS ARTICLE V MUST ALSO INCLUDE THE AFFIRMATIVE VOTE OF AT LEAST TWO INDEPENDENT COMMISSIONERS.

(10) THE COMMISSION SHALL NOT VOTE UPON A FINAL PLAN UNTIL AT LEAST SEVENTY-TWO HOURS AFTER IT HAS BEEN PROPOSED TO THE COMMISSION IN A PUBLIC MEETING OR AMENDED BY THE COMMISSION, WHICHEVER OCCURS LATER, UNLESS COMMISSIONERS UNANIMOUSLY WAIVE SUCH REQUIREMENT.

Section 48.5. Preparation, amendment, and approval of plans. (1) (a) THE COMMISSION SHALL BEGIN BY CONSIDERING PLANS CREATED BY ITS STAFF ALONE. PRIOR TO THE COMMISSION'S CONSIDERATION OF A PRELIMINARY PLAN, ITS NONPARTISAN STAFF SHALL PREPARE AND PRESENT TO THE COMMISSION NO FEWER THAN FOUR PLANS, EXCEPT AS PROVIDED IN SUBSECTION (1)(e) OF THIS SECTION. THESE PLANS SHALL BE KNOWN AS THE STAFF PLANS AND MUST BE NAMED AND NUMBERED SEQUENTIALLY FOR PURPOSES OF SUBSECTION (2) OF THIS SECTION. THE STAFF PLANS SHALL BE PREPARED, PUBLISHED ONLINE, AND PRESENTED ON A TIMETABLE ESTABLISHED BY THE COMMISSION, EXCEPT EACH STAFF PLAN SHALL BE PRESENTED TO THE COMMISSION NO FEWER THAN TEN DAYS AFTER THE PRESENTATION OF ANY PREVIOUS STAFF PLAN, AND EACH STAFF PLAN MUST BE PRESENTED TO THE COMMISSION NO FEWER THAN TWENTY-FOUR HOURS AFTER IT HAS BEEN PUBLISHED ONLINE. IF THE COMMISSION FAILS TO ESTABLISH A TIMETABLE FOR PRESENTATION OF STAFF PLANS BY JUNE 10 OF THE REDISTRICTING YEAR, STAFF SHALL ESTABLISH SUCH TIMETABLE. STAFF SHALL KEEP EACH PLAN PREPARED CONFIDENTIAL UNTIL IT IS PUBLISHED ONLINE.

(b) AT THE FIRST PUBLIC HEARING AT WHICH THE FIRST STAFF PLAN IS CONSIDERED, THE STAFF SHALL EXPLAIN HOW THE PLAN WAS CREATED AND HOW THE PLAN COMPLIES WITH THE CRITERIA PRESCRIBED IN SECTIONS 46 (2) AND 47 OF THIS ARTICLE V. THE COMMISSION MAY, UPON MOTION ADOPTED IN ACCORDANCE WITH SECTION 48.3 (9) OF THIS ARTICLE V, ADOPT CERTAIN PROVISIONS, ELEMENTS, OR TECHNIQUES, SUCH AS PLAN COMPONENTS, ELEMENTS OF PUBLIC TESTIMONY, OR A DEFINITION OF COMPETITIVENESS, TO WHICH STAFF SHALL ADHERE IN DEVELOPING A STAFF PLAN. IN PREPARING STAFF PLANS, STAFF MAY ALSO CONSIDER PUBLIC TESTIMONY AND PUBLIC COMMENTS RECEIVED BY THE COMMISSION THAT ARE CONSISTENT WITH THE CRITERIA SPECIFIED IN SECTIONS 46 AND 47 OF THIS ARTICLE V.

(c) SUBJECT TO AVAILABLE APPROPRIATIONS, THE COMMISSION SHALL MAKE USE OF REASONABLY AVAILABLE CURRENT TECHNOLOGY TO FACILITATE PUBLIC INPUT AND COMMENT ON THE WORK OF THE COMMISSION. AT A MINIMUM, THE COMMISSION SHALL ENSURE THE FOLLOWING:

(I) THE PUBLIC HAS THE ABILITY TO SUBMIT WRITTEN COMMENTS REGARDING PLANS AND SUGGEST PROPOSALS FOR PLANS, CONCEPTS FOR PLANS, AND AMENDMENTS TO PLANS AT ANY TIME VIA ELECTRONIC MEANS, STARTING NO LATER THAN THE INTRODUCTION OF THE FIRST STAFF PLAN. DURING PUBLIC MEETINGS OF THE COMMISSION, ANY COMMISSIONER MAY REQUEST THAT STAFF PREPARE FOR THE COMMISSION'S CONSIDERATION A PLAN PROPOSAL, PLAN CONCEPT, OR PLAN AMENDMENT SUGGESTED BY A MEMBER OF THE PUBLIC, IN ACCORDANCE WITH SUBSECTION (1)(d) OF THIS SECTION.

(II) THE PUBLIC HAS ADEQUATE OPPORTUNITY TO COMMENT DURING THE PLAN DEVELOPMENT PROCESS, INCLUDING, BUT NOT NECESSARILY LIMITED TO, AN OPPORTUNITY TO COMMENT AFTER THE PUBLICATION OF EACH STAFF PLAN AND PRIOR TO ANY VOTE TO APPROVE A PRELIMINARY PLAN OR TO ADOPT A FINAL PLAN.

(d) ANY MEMBER OF THE COMMISSION OR GROUP OF MEMBERS MAY REQUEST STAFF TO PREPARE ADDITIONAL PLANS OR AMENDMENTS TO PLANS. ANY SUCH REQUEST MUST BE MADE IN A PUBLIC HEARING OF THE COMMISSION BUT DOES NOT REQUIRE COMMISSION APPROVAL. PLANS OR AMENDMENTS DEVELOPED IN RESPONSE TO SUCH REQUESTS ARE SEPARATE FROM STAFF PLANS FOR PURPOSES OF SUBSECTION (2) OF THIS SECTION.

(e) THE COMMISSION MAY ADOPT A PRELIMINARY PLAN AT ANY TIME AFTER PRESENTATION OF THE FIRST STAFF PLAN, IN WHICH CASE THE STAFF DOES NOT NEED TO PREPARE OR PRESENT ADDITIONAL STAFF PLANS.

(2) WITHIN ONE HUNDRED THREE DAYS AFTER THE COMMISSION HAS BEEN CONVENED OR THE NECESSARY CENSUS DATA ARE AVAILABLE, WHICHEVER IS LATER, THE COMMISSION SHALL PUBLISH A PRELIMINARY PLAN. IF FOR ANY REASON THE COMMISSION DOES NOT APPROVE A PRELIMINARY PLAN FOR BOTH HOUSES BY SUCH DATE, THEN THE COMMISSION SHALL PUBLISH THE FOURTH STAFF PLAN AS THE COMMISSION'S PRELIMINARY PLAN. IF THE COMMISSION APPROVES DISTRICTS FOR ONE HOUSE OF THE GENERAL ASSEMBLY BUT NOT THE OTHER HOUSE, THEN THE PLAN FOR THE APPROVED HOUSE SHALL BE PUBLISHED AS THE PRELIMINARY PLAN FOR THAT HOUSE, AND THE FOURTH STAFF PLAN FOR THE HOUSE FOR WHICH THE COMMISSION DID NOT ADOPT A PLAN SHALL BE PUBLISHED AS THE PRELIMINARY PLAN FOR THAT HOUSE.

(3) FOLLOWING THE ADOPTION OF A PRELIMINARY PLAN AND PRIOR TO THE HOLDING OF PUBLIC HEARINGS ON ANY PRELIMINARY PLAN, THE COMMISSION SHALL POST THE PLAN ELECTRONICALLY FOR PUBLIC INSPECTION.

(4) WITHIN FORTY-FIVE DAYS AFTER THE DATE OF THE PUBLICATION OF THE PRELIMINARY PLAN, THE COMMISSION SHALL COMPLETE PUBLIC HEARINGS ON THE PRELIMINARY PLAN IN SEVERAL PLACES THROUGHOUT THE STATE. THE COMMISSION SHALL HOLD NO FEWER THAN THREE HEARINGS IN EACH CONGRESSIONAL DISTRICT, AND THE COMMISSION MUST CONDUCT AT LEAST ONE HEARING IN PERSON IN EACH CONGRESSIONAL DISTRICT. OTHER HEARINGS MAY BE CONDUCTED REMOTELY, THROUGH VIDEO-CONFERENCE OR OTHER AVAILABLE TECHNOLOGY. IN NO CASE, HOWEVER, SHALL THE COMMISSION CONDUCT FEWER THAN TWO IN-PERSON HEARINGS WEST OF THE CONTINENTAL DIVIDE OR FEWER THAN TWO IN-PERSON HEARINGS FROM SOUTH OF EL PASO COUNTY AND EAST OF THE CONTINENTAL DIVIDE.

(5) SUBSEQUENT TO HEARINGS ON THE PRELIMINARY PLAN, THE COMMISSION SHALL RECONVENE. ANY MEMBER OF THE COMMISSION OR GROUP OF MEMBERS MAY REQUEST THE COMMISSION'S STAFF TO PREPARE ADDITIONAL PLANS OR AMENDMENTS TO PLANS, BUT SUCH REQUESTS MUST BE MADE IN A PUBLIC HEARING OF THE COMMISSION.

(6) (a) 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 IN ACCORDANCE WITH SUBSECTION (7) OF THIS SECTION.

(b) THE COMMISSION MAY ADJUST THE DEADLINES SPECIFIED IN THIS SECTION IF CONDITIONS OUTSIDE OF THE COMMISSION'S CONTROL REQUIRE SUCH AN ADJUSTMENT TO ENSURE ADOPTING A FINAL PLAN AS REQUIRED BY THIS SUBSECTION (6).

(c) THE COMMISSION MAY GRANT ITS STAFF THE AUTHORITY TO MAKE TECHNICAL, DE MINIMIS ADJUSTMENTS TO THE ADOPTED PLAN PRIOR TO ITS SUBMISSION TO THE SUPREME COURT.

(d) IF FOR ANY REASON THE COMMISSION DOES NOT APPROVE A FINAL PLAN FOR BOTH HOUSES OF THE GENERAL ASSEMBLY BY THE DATE REQUIRED, THEN THE COMMISSION SHALL SUBMIT THE

PRELIMINARY PLAN AS THE COMMISSION'S FINAL PLAN. IF THE COMMISSION APPROVES DISTRICTS FOR ONE HOUSE OF THE GENERAL ASSEMBLY BUT NOT THE OTHER HOUSE, THEN THE PLAN FOR THE APPROVED HOUSE SHALL BE SUBMITTED AS THE FINAL PLAN FOR THAT HOUSE, AND THE PRELIMINARY PLAN SHALL BE SUBMITTED AS THE FINAL PLAN FOR THE HOUSE FOR WHICH THE COMMISSION DID NOT APPROVE DISTRICTS.

(7) (a) THE SUPREME COURT SHALL REVIEW THE SUBMITTED PLAN AND DETERMINE WHETHER THE PLAN COMPLIES WITH SECTIONS 46 (2) AND 47 OF THIS ARTICLE V. THE COURT'S 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. THE SUPREME COURT SHALL EITHER APPROVE THE PLAN OR RETURN THE PLAN TO THE COMMISSION WITH THE COURT'S REASONS FOR DISAPPROVAL UNDER SECTIONS 46 (2) AND 47 OF THIS ARTICLE V.

(b) IF THE PLAN IS RETURNED, THE COURT SHALL SPECIFY A DATE BY WHICH THE COMMISSION MUST SUBMIT A REVISED PLAN TO THE COURT. NO LATER THAN SUCH DATE, THE COMMISSION SHALL SUBMIT A REVISED PLAN TO THE COURT THAT CONFORMS TO THE COURT'S REQUIREMENTS. IF THE COMMISSION FAILS TO SUBMIT A REVISED PLAN TO THE COURT BY THE DATE REQUIRED, THE COMMISSION'S STAFF SHALL, WITHIN TWO BUSINESS DAYS THEREAFTER, SUBMIT A REVISED PLAN TO THE COURT THAT CONFORMS TO THE COURT'S REQUIREMENTS.

(c) THE SUPREME COURT SHALL APPROVE A PLAN FOR THE REDRAWING OF SENATORIAL AND REPRESENTATIVE DISTRICTS BY A DATE THAT WILL ALLOW SUFFICIENT TIME FOR SUCH PLAN TO BE FILED WITH THE SECRETARY OF STATE NO LATER THAN SIXTY-EIGHT 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.

RECEIVED

NOV 03 2017

SWARD

10:48A.M.

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

Colorado Secretary of State

SECTION 1. In the constitution of the state of Colorado, amend section 46 of article V as follows:

Section 46. Fair legislative districts for fair elections – legislative declaration. (1) (a) THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT, IN ORDER TO ENSURE FAIR LEGISLATIVE REPRESENTATION IN THE STATE SENATE AND THE STATE HOUSE OF REPRESENTATIVES, THE PRACTICE OF POLITICAL GERRYMANDERING, WHEREBY LEGISLATIVE DISTRICTS ARE PURPOSEFULLY DRAWN TO FAVOR ONE POLITICAL PARTY OR INCUMBENT POLITICIAN OVER ANOTHER, OR TO ACCOMPLISH POLITICAL GOALS, MUST END.

(b) THE PUBLIC'S INTEREST IN PROHIBITING POLITICAL GERRYMANDERING IS BEST ACHIEVED BY CREATING A NEW AND INDEPENDENT COMMISSION THAT IS POLITICALLY BALANCED, PROVIDES REPRESENTATION TO VOTERS NOT AFFILIATED WITH EITHER OF THE STATE'S TWO LARGEST PARTIES, AND UTILIZES NONPARTISAN LEGISLATIVE STAFF TO DIVIDE THE STATE INTO LEGISLATIVE DISTRICTS WITHOUT REGARD TO PARTISAN PRESSURES OR CONSIDERATIONS.

(c) THE PEOPLE FURTHER FIND AND DECLARE THAT THE CITIZENS OF COLORADO ARE BEST SERVED BY DRAWING DISTRICTS USING FAIR CRITERIA, BY DRAWING DISTRICTS THAT DO NOT ADVANTAGE OR DISADVANTAGE ANY POLITICAL PARTY, AND BY MAXIMIZING THE NUMBER OF POLITICALLY COMPETITIVE DISTRICTS.

(d) THE PEOPLE FURTHER FIND AND DECLARE THAT PUBLIC PARTICIPATION IN THE REDISTRICTING PROCESS IS A PRIORITY AND THAT THE INDEPENDENT LEGISLATIVE REDISTRICTING COMMISSION SHOULD ACT TRANSPARENTLY, HOLD ALL HEARINGS IN AN OPEN, PUBLIC FORUM, AFFORD THE PUBLIC AN OPPORTUNITY TO ENGAGE THROUGH PUBLIC COMMENT, AND BE ACCOUNTABLE, REPRESENTATIVE, RESPONSIVE, AND INDEPENDENT.

(2) The state shall be divided into as many senatorial and representative districts as there are members of the senate and house of representatives respectively, each district in each house having a population as nearly equal as may be, as required by the constitution of the United States, but in no event shall there be more than five percent deviation between the most populous and the least populous district in each house.

SECTION 2. In the constitution of the state of Colorado, amend section 47 of article V as follows:

Section 47. Composition of 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~~ SECTION 46 (2) OF THIS ARTICLE V, 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~~ SECTION 46 (2) of this article V, communities of interest, including RACIAL, ethnic, LANGUAGE GROUP, cultural, economic, trade area, geographic, and demographic factors, shall be preserved within a single district wherever possible.

(4) (a) IN DEVELOPING A PLAN FOR REDRAWING THE DISTRICTS OF THE MEMBERS OF THE GENERAL ASSEMBLY, THE INDEPENDENT LEGISLATIVE REDISTRICTING COMMISSION SHALL COMPLY WITH THE FEDERAL "VOTING RIGHTS ACT OF 1965", IN PARTICULAR 52 U.S.C. SEC. 10101.

(b) TO THE EXTENT POSSIBLE AFTER MEETING THE OTHER REQUIREMENTS OF THIS SECTION, THE COMMISSION SHALL MAXIMIZE THE NUMBER OF POLITICALLY COMPETITIVE LEGISLATIVE DISTRICTS.

(c) LEGISLATIVE REDISTRICTING PLANS SHALL NOT BE DRAWN TO PURPOSEFULLY ADVANTAGE OR DISADVANTAGE ANY POLITICAL PARTY OR PERSON.

SECTION 3. In the constitution of the state of Colorado, **repeal and reenact, with amendments,** section 48 of article V as follows:

Section 48. Revision and alteration of districts – independent legislative redistricting commission. (1) THE RESPONSIBILITY OF DIVIDING THE STATE INTO SENATORIAL AND REPRESENTATIVE DISTRICTS SHALL BE CARRIED OUT BY AN INDEPENDENT COMMISSION TO BE KNOWN AS THE INDEPENDENT LEGISLATIVE REDISTRICTING COMMISSION, WHICH IS HEREBY CREATED AND REFERRED TO IN THIS SECTION AND SECTIONS 48.3 AND 48.5 OF THIS ARTICLE V AS THE "COMMISSION". THE MEMBERS OF THE COMMISSION SHALL BE APPOINTED AS PRESCRIBED IN THIS SECTION IN THE YEAR FOLLOWING THAT IN WHICH THE FEDERAL CENSUS IS TAKEN. SUCH YEAR

IS REFERRED TO AS THE "REDISTRICTING YEAR" IN THIS SECTION AND SECTIONS 48.3 AND 48.5 OF THIS ARTICLE V.

(2) THE COMMISSION CONSISTS OF TWELVE MEMBERS WHO HAVE THE FOLLOWING QUALIFICATIONS:

(a) FOUR MEMBERS MUST BE REGISTERED WITH THE STATE'S LARGEST POLITICAL PARTY AND SHALL BE APPOINTED IN ACCORDANCE WITH SUBSECTION (6) OF THIS SECTION.

(b) FOUR MEMBERS MUST BE REGISTERED WITH THE STATE'S SECOND LARGEST POLITICAL PARTY AND SHALL BE APPOINTED IN ACCORDANCE WITH SUBSECTION (6) OF THIS SECTION.

(c) FOR A CONTINUOUS PERIOD BEGINNING WITH THE DATE OF THE GENERAL ELECTION IMMEDIATELY PRIOR TO THE MOST RECENT GENERAL ELECTION AND THROUGH THE DATE OF THE MEMBER'S APPOINTMENT, FOUR MEMBERS MUST HAVE EACH BEEN UNAFFILIATED WITH ANY POLITICAL PARTY OR REGISTERED WITH A POLITICAL PARTY OTHER THAN THE STATE'S TWO LARGEST POLITICAL PARTIES. SUCH MEMBERS ARE REFERRED TO IN THIS SECTION AND SECTIONS 48.3 AND 48.5 OF THIS ARTICLE V AS THE "INDEPENDENT MEMBERS" OF THE COMMISSION OR THE "INDEPENDENT COMMISSIONERS". THE INDEPENDENT MEMBERS SHALL BE APPOINTED IN ACCORDANCE WITH SUBSECTION (7) OF THIS SECTION.

(3) ALL COMMISSIONERS MUST BE REGISTERED ELECTORS OF THE STATE OF COLORADO. NO COMMISSIONER MAY BE AN INCUMBENT MEMBER OF THE GENERAL ASSEMBLY OR A CANDIDATE FOR THE GENERAL ASSEMBLY.

(4) (a) NO MORE THAN THREE MEMBERS OF THE COMMISSION MAY RESIDE IN ANY SINGLE CONGRESSIONAL DISTRICT. AT LEAST ONE MEMBER MUST RESIDE IN EACH CONGRESSIONAL DISTRICT.

(b) AT LEAST ONE MEMBER OF THE COMMISSION MUST RESIDE IN EACH OF THE FOLLOWING TWO AREAS OF THE STATE, ~~AND ANY~~ REFERENCE IN THIS SECTION TO A "GEOGRAPHIC AREA" REFERS TO THESE AREAS:

(I) WEST OF THE CONTINENTAL DIVIDE; AND

(II) EAST OF THE CONTINENTAL DIVIDE AND EITHER SOUTH OF EL PASO COUNTY'S SOUTHERN BOUNDARY OR EAST OF ARAPAHOE COUNTY'S EASTERN BOUNDARY.

(5) ALL APPOINTEES TO THE COMMISSION SHALL BE SUBJECT TO AN APPLICATION PROCESS AS FOLLOWS:

(a) NO LATER THAN FEBRUARY 1 OF THE REDISTRICTING YEAR, THE SECRETARY OF STATE SHALL ESTABLISH AND ANNOUNCE AN APPLICATION PROCESS FOR PERSONS DESIRING TO SERVE AS MEMBERS OF THE COMMISSION. THE PROCESS MUST INCLUDE AN APPLICATION FORM THAT MUST BE SUBMITTED ELECTRONICALLY TO THE SECRETARY OF STATE. IN ADDITION, THE SECRETARY OF STATE SHALL CONSULT AND COORDINATE WITH THE STATE'S COUNTY CLERK AND RECORDERS TO DEVELOP AND IMPLEMENT A PROGRAM TO ADVERTISE AND ENCOURAGE APPLICATIONS FROM ELIGIBLE PERSONS FROM ACROSS THE STATE.

(b) THE APPLICATION FORM MUST CLEARLY STATE LEGAL OBLIGATIONS AND EXPECTATIONS OF POTENTIAL APPOINTEES. INFORMATION REQUIRED OF APPLICANTS MUST INCLUDE, BUT NOT NECESSARILY BE LIMITED TO, PROFESSIONAL BACKGROUND, PARTY AFFILIATION, A DESCRIPTION OF PAST POLITICAL ACTIVITY, AND A LIST OF POLITICAL AND CIVIC ORGANIZATIONS TO WHICH THE APPLICANT HAS BELONGED WITHIN THE PREVIOUS FIVE YEARS. IN ADDITION, THE APPLICATION FORM MUST REQUIRE THE APPLICANT TO EXPLAIN WHY THE APPLICANT WANTS TO SERVE ON THE COMMISSION AND AFFORD APPLICANTS AN OPPORTUNITY TO MAKE A STATEMENT ABOUT HOW THE APPLICANT WILL PROMOTE CONSENSUS AMONG COMMISSIONERS IF APPOINTED TO THE COMMISSION. APPLICANTS MAY ALSO CHOOSE TO INCLUDE UP TO FOUR LETTERS OF RECOMMENDATION WITH THEIR APPLICATION.

(c) APPLICATIONS MUST BE SUBMITTED NO LATER THAN MARCH 10 OF THE REDISTRICTING YEAR. WITHIN THREE BUSINESS DAYS ~~THEREAFTER~~ AFTER MARCH 10, THE SECRETARY OF STATE SHALL POST ALL APPLICATIONS ON THE SECRETARY OF STATE'S WEBSITE.

(6) APPOINTMENTS OF MEMBERS REGISTERED WITH THE STATE'S TWO LARGEST POLITICAL PARTIES MUST BE MADE FROM THE APPLICANTS WHO SUBMITTED APPLICATIONS TO THE SECRETARY OF STATE. NO APPOINTEE MAY RESIDE IN THE SAME CONGRESSIONAL DISTRICT OR THE SAME GEOGRAPHIC AREA AS ANY PREVIOUS APPOINTEE UNTIL ONE APPOINTMENT HAS BEEN MADE FROM EACH CONGRESSIONAL DISTRICT AND EACH GEOGRAPHIC AREA. FOR EACH APPOINTMENT, THE APPOINTING AUTHORITY MUST DESIGNATE ONE ALTERNATE WHO RESIDES IN THE SAME CONGRESSIONAL DISTRICT OR GEOGRAPHIC AREA AS THE APPOINTEE FOR WHOM HE OR SHE IS AN ALTERNATE. IF ANY OF THE EIGHT APPOINTMENTS MADE ACCORDING TO THIS SUBSECTION (6) VACATES HIS OR HER POSITION AT ANY TIME DURING HIS OR HER TERM, SUCH VACANCY SHALL BE FILLED BY THE DESIGNATED ALTERNATE. IF ANY APPOINTING AUTHORITY FAILS TO MAKE HIS OR HER APPOINTMENT BY A DATE REQUIRED IN THIS SUBSECTION (6), THEN SUCH APPOINTMENT IS

FORFEITED, AND THE NUMBER OF COMMISSIONERS COMPRISING THE COMMISSION IS REDUCED ACCORDINGLY. APPOINTMENTS MUST BE MADE ACCORDING TO THE FOLLOWING SCHEDULE IN THE REDISTRICTING YEAR:

(a) NO LATER THAN MARCH 18, THE SENATE MAJORITY LEADER SHALL APPOINT ONE MEMBER AND DESIGNATE ONE ALTERNATE.

(b) BETWEEN MARCH 19 AND MARCH 21, THE SENATE MINORITY LEADER SHALL APPOINT ONE MEMBER AND DESIGNATE ONE ALTERNATE.

(c) BETWEEN MARCH 22 AND MARCH 24, THE HOUSE MAJORITY LEADER SHALL APPOINT ONE MEMBER AND DESIGNATE ONE ALTERNATE.

(d) BETWEEN MARCH 25 AND MARCH 28, THE HOUSE MINORITY LEADER SHALL APPOINT TWO MEMBERS AND DESIGNATE TWO ALTERNATES.

(e) BETWEEN MARCH 29 AND MARCH 31, THE HOUSE MAJORITY LEADER SHALL APPOINT ONE MEMBER AND DESIGNATE ONE ALTERNATE.

(f) BETWEEN APRIL 1 AND APRIL 3, THE SENATE MINORITY LEADER SHALL APPOINT ONE MEMBER AND DESIGNATE ONE ALTERNATE.

(g) BETWEEN APRIL 4 AND APRIL 6, THE SENATE MAJORITY LEADER SHALL APPOINT ONE MEMBER AND ONE ALTERNATE.

(7) INDEPENDENT APPOINTEES TO THE COMMISSION SHALL BE SELECTED AS FOLLOWS:

(a) NO LATER THAN APRIL 1, THE SECRETARY OF STATE SHALL EXAMINE EACH APPLICATION FOR APPOINTMENT AS AN INDEPENDENT MEMBER OF THE COMMISSION, ISSUE AN ELIGIBILITY FINDING WHETHER THE APPLICANT MEETS THE QUALIFICATION SPECIFIED IN SUBSECTIONS (2)(c) AND (3) OF THIS SECTION, POST THE FINDING ON THE SECRETARY OF STATE'S WEBSITE, AND NOTIFY THE APPLICANT BY ELECTRONIC MAIL OF THE SECRETARY OF STATE'S FINDING. IF THE SECRETARY OF STATE FINDS THAT AN APPLICANT IS NOT ELIGIBLE, THEN THE SECRETARY OF STATE SHALL INCLUDE THE REASONS THEREFOR IN HIS OR HER FINDING. IF THE SECRETARY OF STATE FINDS THAT AN APPLICANT IS NOT ELIGIBLE, THE APPLICANT MAY WITHDRAW HIS OR HER APPLICATION OR SUBMIT A BRIEF STATEMENT DISPUTING THE FINDING WITHIN THREE BUSINESS DAYS AFTER THE DATE OF THE SECRETARY OF STATE'S ELECTRONIC MAIL NOTIFICATION, WHICH STATEMENT SHALL BE POSTED PROMPTLY WITH THE SECRETARY OF STATE'S FINDING. IF AN APPLICANT SUBMITS A STATEMENT DISPUTING THE SECRETARY OF STATE'S FINDING OF INELIGIBILITY, THE APPLICANT MAY BE

CONSIDERED BY THE PANEL IN ACCORDANCE WITH SUBSECTION (7)(d) OF THIS SECTION IF THE PANEL DETERMINES THAT THE APPLICANT IS ELIGIBLE.

(b) NO LATER THAN MARCH 20 OF THE REDISTRICTING YEAR, THE SECRETARY OF STATE SHALL DESIGNATE A PANEL TO REVIEW THE APPLICATIONS FOR APPOINTMENT AS AN INDEPENDENT MEMBER OF THE COMMISSION. THE PANEL MUST CONSIST OF THE THREE JUSTICES OR JUDGES WHO MOST RECENTLY RETIRED FROM THE COLORADO SUPREME COURT OR THE COLORADO COURT OF APPEALS, APPOINTED SEQUENTIALLY STARTING WITH THE MOST RECENT JUSTICE OR JUDGE TO RETIRE WHO HAS BEEN AFFILIATED WITH THE SAME POLITICAL PARTY OR UNAFFILIATED WITH ANY POLITICAL PARTY FOR THE TWO YEARS PRIOR TO APPOINTMENT, EXCEPT THAT NO APPOINTEE, WITHIN TWO YEARS PRIOR TO APPOINTMENT, SHALL HAVE BEEN AFFILIATED WITH THE SAME POLITICAL PARTY AS A JUSTICE OR JUDGE ALREADY APPOINTED TO THE PANEL. IF ANY OF THE THREE JUSTICES OR JUDGES WHO MOST RECENTLY RETIRED FROM THE COLORADO SUPREME COURT OR THE COLORADO COURT OF APPEALS IS UNABLE OR UNWILLING TO SERVE ON THE PANEL OR HAS BEEN AFFILIATED WITHIN TWO YEARS PRIOR TO APPOINTMENT WITH A POLITICAL PARTY ALREADY REPRESENTED ON THE PANEL, THEN THE SECRETARY OF STATE SHALL APPOINT THE NEXT JUSTICE OR JUDGE WHO MOST RECENTLY RETIRED FROM THE COLORADO SUPREME COURT OR THE COLORADO COURT OF APPEALS AND WHO HAS NOT BEEN AFFILIATED WITHIN TWO YEARS PRIOR TO APPOINTMENT WITH THE SAME POLITICAL PARTY AS ANY JUSTICE OR JUDGE ALREADY APPOINTED TO THE PANEL. IF, AFTER CONSIDERING ALL JUSTICES AND JUDGES WHO HAVE RETIRED FROM THE COLORADO SUPREME COURT AND THE COLORADO COURT OF APPEALS, FEWER THAN THREE ELIGIBLE PARTICIPANTS FOR THE PANEL HAVE BEEN IDENTIFIED, THE SECRETARY OF STATE SHALL APPOINT THE MOST RECENTLY RETIRED DISTRICT COURT JUDGE WHO HAS NOT BEEN AFFILIATED WITHIN TWO YEARS PRIOR TO APPOINTMENT WITH THE SAME POLITICAL PARTY AS ANY PREVIOUS APPOINTEE TO THE PANEL AND WHO ACCEPTS SUCH APPOINTMENT. UPON REQUEST OF THE SECRETARY OF STATE, THE STATE COURT ADMINISTRATOR SHALL PROVIDE INFORMATION ABOUT JUSTICES AND JUDGES WHO RECENTLY RETIRED FROM THE COLORADO SUPREME COURT, THE COLORADO COURT OF APPEALS, AND THE STATE'S DISTRICT COURTS AS MAY BE NECESSARY FOR THE SECRETARY OF STATE TO PERFORM HIS OR HER DUTIES UNDER THIS SUBSECTION (7)(b).

(c) THE SECRETARY OF STATE SHALL REIMBURSE MEMBERS OF THE PANEL FOR NECESSARY TRAVEL AND OTHER REASONABLE EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES AND SHALL COMPENSATE MEMBERS OF THE PANEL FOR EACH DAY THAT THE PANEL MEETS IN AN AMOUNT

EQUAL TO ONE-TWENTIETH OF THE MONTHLY SALARY THEN CURRENTLY APPLICABLE TO ASSOCIATE JUSTICES OF THE COLORADO SUPREME COURT. SUCH REIMBURSEMENT AND COMPENSATION MUST NOT AFFECT A MEMBER'S JUDICIAL SERVICE RETIREMENT BENEFITS.

(d) IN ONE OR MORE PUBLIC HEARINGS OPEN TO PUBLIC TESTIMONY AND CONDUCTED IN ACCORDANCE WITH PROCEDURES DETERMINED BY THE PANEL, THE PANEL SHALL SELECT TWENTY ELIGIBLE APPLICANTS IT UNANIMOUSLY RECOMMENDS FOR APPOINTMENT AS INDEPENDENT MEMBERS OF THE COMMISSION, OR SUCH LESSER NUMBER AS THERE ARE TOTAL ELIGIBLE APPLICANTS. THE NONPARTISAN RESEARCH STAFF OF THE GENERAL ASSEMBLY SHALL PROVIDE STAFF ASSISTANCE TO THE PANEL FOR SUCH MEETINGS UPON THE REQUEST OF ANY MEMBER OF THE PANEL. THE PANEL MAY DETERMINE THE ELIGIBILITY OF ANY APPLICANT WHOSE QUALIFICATIONS UNDER SUBSECTIONS (2)(c) AND (3) OF THIS SECTION ARE IN QUESTION. THE PANEL SHALL, TO THE EXTENT PRACTICAL, RECOMMEND APPLICANTS WHO REPRESENT COLORADO'S RACIAL, ETHNIC, GENDER, AND GEOGRAPHIC DIVERSITY, TAKING INTO CONSIDERATION THE GEOGRAPHIC REPRESENTATION REQUIREMENTS OF SUBSECTION (4) OF THIS SECTION AND THE GEOGRAPHIC REPRESENTATION OF THE EIGHT COMMISSIONERS PREVIOUSLY APPOINTED BY THE SENATE MAJORITY LEADER, THE SENATE MINORITY LEADER, THE HOUSE MAJORITY LEADER, AND THE HOUSE MINORITY LEADER. TO THE EXTENT POSSIBLE, THE PANEL SHALL RECOMMEND NO FEWER THAN THREE APPLICANTS FROM EACH UNREPRESENTED CONGRESSIONAL DISTRICT AND EACH UNREPRESENTED GEOGRAPHIC AREA. ADDITIONALLY, THE PANEL SHALL RECOMMEND THOSE APPLICANTS WHO IT FINDS TO BE MOST QUALIFIED TO PERFORM THE DUTIES OF THE COMMISSION, WHO DO NOT DEMONSTRATE ALLEGIANCE OR FIDELITY TO EITHER OF THE STATE'S TWO LARGEST POLITICAL PARTIES, WHO ARE BEST ABLE TO NEUTRALLY APPLY AND ADMINISTER THEIR RESPONSIBILITIES AS COMMISSIONERS, AND WHO ARE MOST LIKELY TO PROMOTE CONSENSUS AMONG COMMISSIONERS. MEMBERS OF THE PANEL SHALL HAVE NO EX PARTE COMMUNICATIONS REGARDING THE PERFORMANCE OF THEIR DUTIES UNDER THIS SUBSECTION (7)(d).

(e) THE PANEL SHALL ISSUE ITS RECOMMENDATIONS NO LATER THAN APRIL 23 OF THE REDISTRICTING YEAR. THE PANEL SHALL FORWARD ITS RECOMMENDATIONS TO THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL, THE SENATE MAJORITY LEADER, THE SENATE MINORITY LEADER, THE HOUSE MAJORITY LEADER, THE HOUSE MINORITY LEADER, AND THE SECRETARY OF STATE, WHO SHALL PROMPTLY POST THE PANEL'S RECOMMENDATIONS ON THE SECRETARY OF STATE'S WEBSITE.

(f) NO LATER THAN APRIL 30 OF THE REDISTRICTING YEAR, THE SECRETARY OF STATE SHALL, IN A PUBLIC MEETING HELD AFTER NOTICE, RANDOMLY SELECT THE FOUR INDEPENDENT MEMBERS FROM THE APPLICANTS RECOMMENDED BY THE PANEL AS FOLLOWS:

(I) FOR EACH CONGRESSIONAL DISTRICT OR GEOGRAPHIC AREA UNREPRESENTED BY THE EIGHT APPOINTMENTS MADE BY THE SENATE MAJORITY LEADER, THE SENATE MINORITY LEADER, THE HOUSE MAJORITY LEADER, AND THE HOUSE MINORITY LEADER, THE SECRETARY OF STATE SHALL RANDOMLY SELECT THE NAME OF ONE APPLICANT FROM ALL RECOMMENDED APPLICANTS WHO RESIDE IN THAT CONGRESSIONAL DISTRICT OR GEOGRAPHIC AREA TO SERVE AS AN APPOINTEE TO THE COMMISSION. THE NAMES OF RECOMMENDED APPLICANTS NOT SELECTED MUST THEN BE INCLUDED IN THE POOL OF RECOMMENDED APPLICANTS FOR FURTHER CONSIDERATION PURSUANT TO SUBSECTION (7)(f)(II) OF THIS SECTION.

(II) FROM AMONG THE APPLICANTS REMAINING AFTER COMPLETING THE SELECTION OF INDEPENDENT MEMBERS PURSUANT TO SUBSECTION (7)(f)(I) OF THIS SECTION, THE SECRETARY OF STATE SHALL RANDOMLY SELECT SUCH NUMBER OF APPLICANTS AS NECESSARY SO THAT THE TOTAL NUMBER OF SELECTIONS MADE PURSUANT TO THIS SUBSECTION (7)(f) TOTALS FOUR; EXCEPT THAT, IF THE SELECTION OF ANY APPLICANT WOULD RESULT IN MORE THAN THREE COMMISSIONERS RESIDING IN A SINGLE CONGRESSIONAL DISTRICT, CONTRARY TO SECTION 48 (4)(a) OF THIS ARTICLE V, THEN THE SECRETARY OF STATE SHALL DISCARD THAT SELECTION AND CONTINUE TO RANDOMLY SELECT APPLICANTS UNTIL THE TOTAL NUMBER OF SELECTIONS MADE PURSUANT TO THIS SUBSECTION (7)(f) TOTALS FOUR AND NO MORE THAN THREE COMMISSIONERS RESIDE IN A SINGLE CONGRESSIONAL DISTRICT. THE FOUR APPLICANTS CHOSEN UPON CONCLUSION OF THE PROCESS DESCRIBED IN THIS SUBSECTION (7)(f) SHALL BECOME THE INDEPENDENT COMMISSIONERS.

(III) THE SECRETARY OF STATE SHALL THEN RANDOMLY SELECT FOUR ADDITIONAL NAMES FROM THE REMAINING APPLICANTS. THESE FOUR APPLICANTS SHALL SERVE AS ALTERNATES AND SHALL BE NUMBERED CONSECUTIVELY AS ALTERNATE ONE, ALTERNATE TWO, ALTERNATE THREE, AND ALTERNATE FOUR. THE ALTERNATES SHALL, IN ORDER AND IRRESPECTIVE OF CONGRESSIONAL DISTRICT OR GEOGRAPHIC AREA, FILL ANY VACANCIES BY THE INDEPENDENT COMMISSIONERS DURING THEIR TERMS.

(8) FOR PURPOSES OF THIS SECTION, THE STATE'S TWO LARGEST POLITICAL PARTIES SHALL BE DETERMINED BY THE NUMBER OF REGISTERED ELECTORS AFFILIATED WITH EACH POLITICAL PARTY IN THE STATE ACCORDING TO VOTER REGISTRATION DATA PUBLISHED BY THE SECRETARY OF STATE

FOR THE EARLIEST DAY IN JANUARY OF THE REDISTRICTING YEAR FOR WHICH SUCH DATA IS PUBLISHED.

SECTION 4. In the constitution of the state of Colorado, add sections 48.3 and 48.5 to article V as follows:

Section 48.3. Commission organization – procedures – transparency – voting requirements. (1) THE GOVERNOR SHALL CONVENE THE COMMISSION NO LATER THAN MAY 15 OF THE REDISTRICTING YEAR, APPOINTING A TEMPORARY CHAIRPERSON FROM THE COMMISSION'S MEMBERS. UPON CONVENING, THE COMMISSION SHALL ELECT A CHAIR AND A VICE-CHAIR, WHO MUST NOT BE MEMBERS OF THE SAME POLITICAL PARTY, AND SUCH OTHER OFFICERS AS IT DETERMINES.

(2) THE DIRECTORS OF THE NONPARTISAN RESEARCH AND LEGAL STAFFS OF THE GENERAL ASSEMBLY SHALL APPOINT NONPARTISAN STAFF FROM THEIR RESPECTIVE OFFICES AS NEEDED TO ASSIST THE COMMISSION. AS FAR IN ADVANCE AS NECESSARY TO ENABLE THE COMMISSION TO BEGIN ITS WORK IMMEDIATELY UPON CONVENING, THE NONPARTISAN STAFF SHALL ACQUIRE AND PREPARE ALL NECESSARY RESOURCES, INCLUDING HARDWARE, SOFTWARE, AND DEMOGRAPHIC, GEOGRAPHIC, AND POLITICAL DATABASES.

(3) THE COMMISSION MAY RETAIN LEGAL COUNSEL IN ALL ACTIONS AND PROCEEDINGS IN CONNECTION WITH THE PERFORMANCE OF ITS POWERS, DUTIES, AND FUNCTIONS, INCLUDING REPRESENTATION OF THE COMMISSION BEFORE THE SUPREME COURT PURSUANT TO SECTION 48.5 (7) OF THIS ARTICLE V.

(4) THE GENERAL ASSEMBLY SHALL APPROPRIATE SUFFICIENT FUNDS FOR THE COMPENSATION AND PAYMENT OF THE EXPENSES OF THE COMMISSION AND ITS STAFF. SUBJECT TO AVAILABLE APPROPRIATIONS, HARDWARE AND SOFTWARE NECESSARY FOR THE DEVELOPMENT OF PLANS MAY, AT THE REQUEST OF ANY COMMISSIONER, BE PROVIDED TO SUCH COMMISSIONER. THE COMMISSION AND ITS STAFF SHALL HAVE ACCESS TO STATISTICAL INFORMATION COMPILED BY THE STATE AND ITS POLITICAL SUBDIVISIONS AND NECESSARY FOR ITS DUTIES. STATE AGENCIES AND POLITICAL SUBDIVISIONS SHALL COMPLY WITH REQUESTS FROM THE COMMISSION AND ITS STAFF FOR SUCH STATISTICAL INFORMATION.

(5) THE COMMISSION SHALL ADOPT RULES TO GOVERN ITS ADMINISTRATION AND OPERATION, INCLUDING BUT NOT LIMITED TO THE FOLLOWING:

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

(b) THE PROCESS FOR REMOVING COMMISSIONERS FOR VIOLATING PUBLIC DISCLOSURE OR OPEN MEETINGS PROVISIONS OF THIS SECTION, OR PARTICIPATING IN COMMUNICATIONS PROHIBITED UNDER THIS SECTION;

(c) PROVIDING FOR ANY VACANCY CREATED BY THE DEATH, RESIGNATION, OR REMOVAL OF A COMMISSIONER, OR OTHERWISE, WHICH SHALL BE FILLED BY THE ALTERNATE DETERMINED AS PROVIDED IN SECTION 48 OF THIS ARTICLE V, OR IF SUCH ALTERNATE IS UNWILLING OR UNABLE TO SERVE, BY THE RESPECTIVE APPOINTING AUTHORITY. MEMBERS OF THE COMMISSION SHALL HOLD OFFICE UNTIL APRIL 30 OF THE NEXT REDISTRICTING YEAR.

(d) THE PROCESS FOR RECOMMENDING CHANGES TO PLANS SUBMITTED TO THE COMMISSION BY NONPARTISAN STAFF; AND

(e) THE ADOPTION OF A STATEWIDE MEETING AND HEARING SCHEDULE.

(6) (a) EXCEPT AS PROVIDED IN SUBSECTION (6)(b) OF THIS SECTION, THE COMMISSION IS SUBJECT TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, COLORADO REVISED STATUTES, OR ANY SUCCESSOR ACT.

(b) MAPS IN DRAFT FORM AND NOT SUBMITTED TO THE COMMISSION ARE NOT PUBLIC RECORDS SUBJECT TO DISCLOSURE. WORK PRODUCT AND COMMUNICATIONS BETWEEN COMMISSION STAFF ARE SUBJECT TO DISCLOSURE ONCE A PLAN IS SUBMITTED TO THE SUPREME COURT.

(7) (a) THE COMMISSION IS SUBJECT TO THE OPEN MEETINGS PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972" CONTAINED IN PART 4 OF ARTICLE 6 OF TITLE 24, COLORADO REVISED STATUTES, OR ANY SUCCESSOR ACT. FURTHERMORE, COMMUNICATIONS OUTSIDE OF A PUBLIC MEETING RELATING TO COMMISSION BUSINESS THAT INVOLVE MORE THAN THREE COMMISSIONERS ARE PROHIBITED.

(b) EXCEPT AS PROVIDED IN SUBSECTIONS (7)(c) AND (7)(d) OF THIS SECTION, COMMISSIONERS SHALL NOT COMMUNICATE WITH THE COMMISSION'S STAFF ON THE MAPPING OF LEGISLATIVE DISTRICTS UNLESS THE COMMUNICATION IS DURING A PUBLIC MEETING OR HEARING OF THE COMMISSION.

(c) EXCEPT FOR PUBLIC INPUT AND COMMENT SUCH AS IS PROVIDED FOR IN SECTION 48.5 (1)(c) AND SECTION 48.5 (4) OF THIS ARTICLE V, THE COMMISSION'S STAFF MEMBERS SHALL NOT HAVE ANY COMMUNICATIONS ABOUT THE CONTENT OR DEVELOPMENT OF ANY PLAN OUTSIDE OF PUBLIC HEARINGS WITH ANYONE EXCEPT OTHER STAFF MEMBERS. STAFF SHALL REPORT TO THE COMMISSION ANY ATTEMPT BY ANYONE TO EXERT INFLUENCE OVER THE DRAFTING OF PLANS.

(d) ONE OR MORE STAFF MAY BE DESIGNATED TO COMMUNICATE WITH COMMISSIONERS REGARDING ADMINISTRATIVE MATTERS, THE DEFINITION AND SCOPE OF WHICH SHALL BE DETERMINED BY THE COMMISSION.

(e) ANY COMMISSIONER WHO PARTICIPATES IN A COMMUNICATION PROHIBITED IN THIS SECTION SHALL BE REMOVED FROM THE COMMISSION AND REPLACED WITHIN SEVEN DAYS ACCORDING TO COMMISSION RULES.

(f) AT THE DIRECTION OF THE COMMISSION, ITS STAFF MAY CONSULT WITH EXPERTS RETAINED BY THE COMMISSION. WORK PRODUCT AND COMMUNICATIONS BETWEEN COMMISSION STAFF AND SUCH EXPERTS ARE SUBJECT TO DISCLOSURE UNDER THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, COLORADO REVISED STATUTES, OR ANY SUCCESSOR ACT, ONCE A PLAN IS SUBMITTED TO THE SUPREME COURT.

(8) ANY PERSON WHO RECEIVES COMPENSATION FOR ADVOCATING TO THE COMMISSION OR ITS MEMBERS CONCERNING THE ADOPTION OF ANY PLAN, ANY AMENDMENT TO A PLAN, PLAN APPROACH, OR MANNER OF COMPLIANCE WITH ANY OF THE PLAN CRITERIA SET FORTH IN SECTION 47 OF THIS ARTICLE V, OTHER THAN COMMISSION STAFF, IS A "PROFESSIONAL LOBBYIST" AS DEFINED IN SECTION 24-6-301(6), COLORADO REVISED STATUTES, OR ANY SUCCESSOR STATUTE, AND SHALL COMPLY WITH THE REQUIREMENTS APPLICABLE TO PROFESSIONAL LOBBYISTS, INCLUDING REGISTRATION AND FILING DISCLOSURE STATEMENTS, CONTAINED IN PART 3 OF ARTICLE 6 OF TITLE 24, COLORADO REVISED STATUTES, OR ANY SUCCESSOR STATUTES.

(9) ANY MOTION ADOPTED BY THE COMMISSION, INCLUDING THE ELECTION OF ITS OFFICERS AND THE AMENDMENT OF ANY PLAN, REQUIRES THE AFFIRMATIVE VOTE OF AT LEAST EIGHT COMMISSIONERS, INCLUDING THE AFFIRMATIVE VOTE OF AT LEAST ONE INDEPENDENT COMMISSIONER. APPROVAL OF THE PRELIMINARY PLAN PURSUANT TO SECTION 48.5 (2) OF THIS ARTICLE V, ADOPTION OF THE FINAL PLAN FOR SUBMISSION TO THE SUPREME COURT PURSUANT TO SECTION 48.5 (6) OF THIS ARTICLE V, AND ADOPTION OF A REVISED PLAN PURSUANT TO SECTION 48.5

(7) OF THIS ARTICLE V MUST ALSO INCLUDE THE AFFIRMATIVE VOTE OF AT LEAST TWO INDEPENDENT COMMISSIONERS.

(10) THE COMMISSION SHALL NOT VOTE UPON A FINAL PLAN UNTIL AT LEAST SEVENTY-TWO HOURS AFTER IT HAS BEEN PROPOSED TO THE COMMISSION IN A PUBLIC MEETING OR AMENDED BY THE COMMISSION, WHICHEVER OCCURS LATER, UNLESS COMMISSIONERS UNANIMOUSLY WAIVE SUCH REQUIREMENT.

Section 48.5. Preparation, amendment, and approval of plans. (1) (a) THE COMMISSION SHALL BEGIN BY CONSIDERING PLANS CREATED BY ITS STAFF ALONE. PRIOR TO THE COMMISSION'S CONSIDERATION OF A PRELIMINARY PLAN, ITS NONPARTISAN STAFF SHALL PREPARE AND PRESENT TO THE COMMISSION NO FEWER THAN FOUR PLANS, EXCEPT AS PROVIDED IN SUBSECTION (1)(e) OF THIS SECTION. THESE PLANS SHALL BE KNOWN AS THE STAFF PLANS AND MUST BE NAMED AND NUMBERED SEQUENTIALLY FOR PURPOSES OF SUBSECTION (2) OF THIS SECTION. THE STAFF PLANS SHALL BE PREPARED, PUBLISHED ONLINE, AND PRESENTED ON A TIMETABLE ESTABLISHED BY THE COMMISSION, EXCEPT EACH STAFF PLAN SHALL BE PRESENTED TO THE COMMISSION NO FEWER THAN TEN DAYS AFTER THE PRESENTATION OF ANY PREVIOUS STAFF PLAN, AND EACH STAFF PLAN MUST BE PRESENTED TO THE COMMISSION NO FEWER THAN TWENTY-FOUR HOURS AFTER IT HAS BEEN PUBLISHED ONLINE. IF THE COMMISSION FAILS TO ESTABLISH A TIMETABLE FOR PRESENTATION OF STAFF PLANS BY JUNE 10 OF THE REDISTRICTING YEAR, STAFF SHALL ESTABLISH SUCH TIMETABLE. STAFF SHALL KEEP EACH PLAN PREPARED CONFIDENTIAL UNTIL IT IS PUBLISHED ONLINE.

(b) AT THE FIRST PUBLIC HEARING AT WHICH THE FIRST STAFF PLAN IS CONSIDERED, THE STAFF SHALL EXPLAIN HOW THE PLAN WAS CREATED AND HOW THE PLAN COMPLIES WITH THE CRITERIA PRESCRIBED IN SECTIONS 46 (2) AND 47 OF THIS ARTICLE V. THE COMMISSION MAY, UPON MOTION ADOPTED IN ACCORDANCE WITH SECTION 48.3 (9) OF THIS ARTICLE V, ADOPT CERTAIN PROVISIONS, ELEMENTS, OR TECHNIQUES, SUCH AS PLAN COMPONENTS, ELEMENTS OF PUBLIC TESTIMONY, OR A DEFINITION OF COMPETITIVENESS, TO WHICH STAFF SHALL ADHERE IN DEVELOPING A STAFF PLAN. IN PREPARING STAFF PLANS, STAFF MAY ALSO CONSIDER PUBLIC TESTIMONY AND PUBLIC COMMENTS RECEIVED BY THE COMMISSION THAT ARE CONSISTENT WITH THE CRITERIA SPECIFIED IN SECTIONS 46 AND 47 OF THIS ARTICLE V.

(c) SUBJECT TO AVAILABLE APPROPRIATIONS, THE COMMISSION SHALL MAKE USE OF REASONABLY AVAILABLE CURRENT TECHNOLOGY TO FACILITATE PUBLIC INPUT AND COMMENT ON THE WORK OF THE COMMISSION. AT A MINIMUM, THE COMMISSION SHALL ENSURE THE FOLLOWING:

(I) THE PUBLIC HAS THE ABILITY TO SUBMIT WRITTEN COMMENTS REGARDING PLANS AND SUGGEST PROPOSALS FOR PLANS, CONCEPTS FOR PLANS, AND AMENDMENTS TO PLANS AT ANY TIME VIA ELECTRONIC MEANS, STARTING NO LATER THAN THE INTRODUCTION OF THE FIRST STAFF PLAN. DURING PUBLIC MEETINGS OF THE COMMISSION, ANY COMMISSIONER MAY REQUEST THAT STAFF PREPARE FOR THE COMMISSION'S CONSIDERATION A PLAN PROPOSAL, PLAN CONCEPT, OR PLAN AMENDMENT SUGGESTED BY A MEMBER OF THE PUBLIC, IN ACCORDANCE WITH SUBSECTION (1)(d) OF THIS SECTION.

(II) THE PUBLIC HAS ADEQUATE OPPORTUNITY TO COMMENT DURING THE PLAN DEVELOPMENT PROCESS, INCLUDING, BUT NOT NECESSARILY LIMITED TO, AN OPPORTUNITY TO COMMENT AFTER THE PUBLICATION OF EACH STAFF PLAN AND PRIOR TO ANY VOTE TO APPROVE A PRELIMINARY PLAN OR TO ADOPT A FINAL PLAN.

(d) ANY MEMBER OF THE COMMISSION OR GROUP OF MEMBERS MAY REQUEST STAFF TO PREPARE ADDITIONAL PLANS OR AMENDMENTS TO PLANS. ANY SUCH REQUEST MUST BE MADE IN A PUBLIC HEARING OF THE COMMISSION BUT DOES NOT REQUIRE COMMISSION APPROVAL. PLANS OR AMENDMENTS DEVELOPED IN RESPONSE TO SUCH REQUESTS ARE SEPARATE FROM STAFF PLANS FOR PURPOSES OF SUBSECTION (2) OF THIS SECTION.

(e) THE COMMISSION MAY ADOPT A PRELIMINARY PLAN AT ANY TIME AFTER PRESENTATION OF THE FIRST STAFF PLAN, IN WHICH CASE THE STAFF DOES NOT NEED TO PREPARE OR PRESENT ADDITIONAL STAFF PLANS.

(2) WITHIN ONE HUNDRED THREE DAYS AFTER THE COMMISSION HAS BEEN CONVENED OR THE NECESSARY CENSUS DATA ARE AVAILABLE, WHICHEVER IS LATER, THE COMMISSION SHALL PUBLISH A PRELIMINARY PLAN. IF FOR ANY REASON THE COMMISSION DOES NOT APPROVE A PRELIMINARY PLAN FOR BOTH HOUSES BY SUCH DATE, THEN THE COMMISSION SHALL PUBLISH THE FOURTH STAFF PLAN AS THE COMMISSION'S PRELIMINARY PLAN. IF THE COMMISSION APPROVES DISTRICTS FOR ONE HOUSE OF THE GENERAL ASSEMBLY BUT NOT THE OTHER HOUSE, THEN THE PLAN FOR THE APPROVED HOUSE SHALL BE PUBLISHED AS THE PRELIMINARY PLAN FOR THAT HOUSE, AND THE FOURTH STAFF PLAN FOR THE HOUSE FOR WHICH THE COMMISSION DID NOT ADOPT A PLAN SHALL BE PUBLISHED AS THE PRELIMINARY PLAN FOR THAT HOUSE.

(3) FOLLOWING THE ADOPTION OF A PRELIMINARY PLAN AND PRIOR TO THE HOLDING OF PUBLIC HEARINGS ON ANY PRELIMINARY PLAN, THE COMMISSION SHALL POST THE PLAN ELECTRONICALLY FOR PUBLIC INSPECTION.

(4) WITHIN FORTY-FIVE DAYS AFTER THE DATE OF THE PUBLICATION OF THE PRELIMINARY PLAN, THE COMMISSION SHALL COMPLETE PUBLIC HEARINGS ON THE PRELIMINARY PLAN IN SEVERAL PLACES THROUGHOUT THE STATE. THE COMMISSION SHALL HOLD NO FEWER THAN THREE HEARINGS IN EACH CONGRESSIONAL DISTRICT, AND THE COMMISSION MUST CONDUCT AT LEAST ONE HEARING IN PERSON IN EACH CONGRESSIONAL DISTRICT. OTHER HEARINGS MAY BE CONDUCTED REMOTELY, THROUGH VIDEO-CONFERENCE OR OTHER AVAILABLE TECHNOLOGY. IN NO CASE, HOWEVER, SHALL THE COMMISSION CONDUCT FEWER THAN TWO IN-PERSON HEARINGS WEST OF THE CONTINENTAL DIVIDE OR FEWER THAN TWO IN-PERSON HEARINGS FROM SOUTH OF EL PASO COUNTY AND EAST OF THE CONTINENTAL DIVIDE.

(5) SUBSEQUENT TO HEARINGS ON THE PRELIMINARY PLAN, THE COMMISSION SHALL RECONVENE. ANY MEMBER OF THE COMMISSION OR GROUP OF MEMBERS MAY REQUEST THE COMMISSION'S STAFF TO PREPARE ADDITIONAL PLANS OR AMENDMENTS TO PLANS, BUT SUCH REQUESTS MUST BE MADE IN A PUBLIC HEARING OF THE COMMISSION.

(6) (a) 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 IN ACCORDANCE WITH SUBSECTION (7) OF THIS SECTION.

(b) THE COMMISSION MAY ADJUST THE DEADLINES SPECIFIED IN THIS SECTION IF CONDITIONS OUTSIDE OF THE COMMISSION'S CONTROL REQUIRE SUCH AN ADJUSTMENT TO ENSURE ADOPTING A FINAL PLAN AS REQUIRED BY THIS SUBSECTION (6).

(c) THE COMMISSION MAY GRANT ITS STAFF THE AUTHORITY TO MAKE TECHNICAL, DE MINIMIS ADJUSTMENTS TO THE ADOPTED PLAN PRIOR TO ITS SUBMISSION TO THE SUPREME COURT.

(d) IF FOR ANY REASON THE COMMISSION DOES NOT APPROVE A FINAL PLAN FOR BOTH HOUSES OF THE GENERAL ASSEMBLY BY THE DATE REQUIRED, THEN THE COMMISSION SHALL SUBMIT THE

PRELIMINARY PLAN AS THE COMMISSION'S FINAL PLAN. IF THE COMMISSION APPROVES DISTRICTS FOR ONE HOUSE OF THE GENERAL ASSEMBLY BUT NOT THE OTHER HOUSE, THEN THE PLAN FOR THE APPROVED HOUSE SHALL BE SUBMITTED AS THE FINAL PLAN FOR THAT HOUSE, AND THE PRELIMINARY PLAN SHALL BE SUBMITTED AS THE FINAL PLAN FOR THE HOUSE FOR WHICH THE COMMISSION DID NOT APPROVE DISTRICTS.

(7) (a) THE SUPREME COURT SHALL REVIEW THE SUBMITTED PLAN AND DETERMINE WHETHER THE PLAN COMPLIES WITH SECTIONS 46 (2) AND 47 OF THIS ARTICLE V. THE COURT'S 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. THE SUPREME COURT SHALL EITHER APPROVE THE PLAN OR RETURN THE PLAN TO THE COMMISSION WITH THE COURT'S REASONS FOR DISAPPROVAL UNDER SECTIONS 46 (2) AND 47 OF THIS ARTICLE V.

(b) IF THE PLAN IS RETURNED, THE COURT SHALL SPECIFY A DATE BY WHICH THE COMMISSION MUST SUBMIT A REVISED PLAN TO THE COURT. NO LATER THAN SUCH DATE, THE COMMISSION SHALL SUBMIT A REVISED PLAN TO THE COURT THAT CONFORMS TO THE COURT'S REQUIREMENTS. IF THE COMMISSION FAILS TO SUBMIT A REVISED PLAN TO THE COURT BY THE DATE REQUIRED, THE COMMISSION'S STAFF SHALL, WITHIN TWO BUSINESS DAYS THEREAFTER, SUBMIT A REVISED PLAN TO THE COURT THAT CONFORMS TO THE COURT'S REQUIREMENTS.

(c) THE SUPREME COURT SHALL APPROVE A PLAN FOR THE REDRAWING OF SENATORIAL AND REPRESENTATIVE DISTRICTS BY A DATE THAT WILL ALLOW SUFFICIENT TIME FOR SUCH PLAN TO BE FILED WITH THE SECRETARY OF STATE NO LATER THAN SIXTY-EIGHT 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.

RECEIVED

NOV 03 2017

S. WARD
10:48 A.M.

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, amend section 46 of article V as follows:

Section 46. Fair legislative districts for fair elections – legislative declaration. (1) (a) THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT, IN ORDER TO ENSURE FAIR LEGISLATIVE REPRESENTATION IN THE STATE SENATE AND THE STATE HOUSE OF REPRESENTATIVES, THE PRACTICE OF POLITICAL GERRYMANDERING, WHEREBY LEGISLATIVE DISTRICTS ARE PURPOSEFULLY DRAWN TO FAVOR ONE POLITICAL PARTY OR INCUMBENT POLITICIAN OVER ANOTHER, OR TO ACCOMPLISH POLITICAL GOALS, MUST END.

(b) THE PUBLIC'S INTEREST IN PROHIBITING POLITICAL GERRYMANDERING IS BEST ACHIEVED BY CREATING A NEW AND INDEPENDENT COMMISSION THAT IS POLITICALLY BALANCED, PROVIDES REPRESENTATION TO VOTERS NOT AFFILIATED WITH EITHER OF THE STATE'S TWO LARGEST PARTIES, AND UTILIZES NONPARTISAN LEGISLATIVE STAFF TO DIVIDE THE STATE INTO LEGISLATIVE DISTRICTS WITHOUT REGARD TO PARTISAN PRESSURES OR CONSIDERATIONS.

(c) THE PEOPLE FURTHER FIND AND DECLARE THAT THE CITIZENS OF COLORADO ARE BEST SERVED BY DRAWING DISTRICTS USING FAIR CRITERIA, BY DRAWING DISTRICTS THAT DO NOT ADVANTAGE OR DISADVANTAGE ANY POLITICAL PARTY, AND BY MAXIMIZING THE NUMBER OF POLITICALLY COMPETITIVE DISTRICTS.

(d) THE PEOPLE FURTHER FIND AND DECLARE THAT PUBLIC PARTICIPATION IN THE REDISTRICTING PROCESS IS A PRIORITY AND THAT THE INDEPENDENT LEGISLATIVE REDISTRICTING COMMISSION SHOULD ACT TRANSPARENTLY, HOLD ALL HEARINGS IN AN OPEN, PUBLIC FORUM, AFFORD THE PUBLIC AN OPPORTUNITY TO ENGAGE THROUGH PUBLIC COMMENT, AND BE ACCOUNTABLE, REPRESENTATIVE, RESPONSIVE, AND INDEPENDENT.

(2) The state shall be divided into as many senatorial and representative districts as there are members of the senate and house of representatives respectively, each district in each house having a population as nearly equal as may be, as required by the constitution of the United States, but in no event shall there be more than five percent deviation between the most populous and the least populous district in each house.

SECTION 2. In the constitution of the state of Colorado, amend section 47 of article V as follows:

Section 47. Composition of 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~~ SECTION 46 (2) OF THIS ARTICLE V, 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~~ SECTION 46 (2) of this article V, communities of interest, including RACIAL, ethnic, LANGUAGE GROUP, cultural, economic, trade area, geographic, and demographic factors, shall be preserved within a single district wherever possible.

(4) (a) IN DEVELOPING A PLAN FOR REDRAWING THE DISTRICTS OF THE MEMBERS OF THE GENERAL ASSEMBLY, THE INDEPENDENT LEGISLATIVE REDISTRICTING COMMISSION SHALL COMPLY WITH THE FEDERAL "VOTING RIGHTS ACT OF 1965", IN PARTICULAR 52 U.S.C. SEC. 10101.

(b) TO THE EXTENT POSSIBLE AFTER MEETING THE OTHER REQUIREMENTS OF THIS SECTION, THE COMMISSION SHALL MAXIMIZE THE NUMBER OF POLITICALLY COMPETITIVE LEGISLATIVE DISTRICTS.

(c) LEGISLATIVE REDISTRICTING PLANS SHALL NOT BE DRAWN TO PURPOSEFULLY ADVANTAGE OR DISADVANTAGE ANY POLITICAL PARTY OR PERSON.

SECTION 3. In the constitution of the state of Colorado, **repeal and reenact, with amendments,** section 48 of article V as follows:

Section 48. Revision and alteration of districts – independent legislative redistricting commission. (1) THE RESPONSIBILITY OF DIVIDING THE STATE INTO SENATORIAL AND REPRESENTATIVE DISTRICTS SHALL BE CARRIED OUT BY AN INDEPENDENT COMMISSION TO BE KNOWN AS THE INDEPENDENT LEGISLATIVE REDISTRICTING COMMISSION, WHICH IS HEREBY CREATED AND REFERRED TO IN THIS SECTION AND SECTIONS 48.3 AND 48.5 OF THIS ARTICLE V AS THE "COMMISSION". THE MEMBERS OF THE COMMISSION SHALL BE APPOINTED AS PRESCRIBED IN THIS SECTION IN THE YEAR FOLLOWING THAT IN WHICH THE FEDERAL CENSUS IS TAKEN. SUCH YEAR

IS REFERRED TO AS THE "REDISTRICTING YEAR" IN THIS SECTION AND SECTIONS 48.3 AND 48.5 OF THIS ARTICLE V.

(2) THE COMMISSION CONSISTS OF TWELVE MEMBERS WHO HAVE THE FOLLOWING QUALIFICATIONS:

(a) FOUR MEMBERS MUST BE REGISTERED WITH THE STATE'S LARGEST POLITICAL PARTY AND SHALL BE APPOINTED IN ACCORDANCE WITH SUBSECTION (6) OF THIS SECTION.

(b) FOUR MEMBERS MUST BE REGISTERED WITH THE STATE'S SECOND LARGEST POLITICAL PARTY AND SHALL BE APPOINTED IN ACCORDANCE WITH SUBSECTION (6) OF THIS SECTION.

(c) FOR A CONTINUOUS PERIOD BEGINNING WITH THE DATE OF THE GENERAL ELECTION IMMEDIATELY PRIOR TO THE MOST RECENT GENERAL ELECTION AND THROUGH THE DATE OF THE MEMBER'S APPOINTMENT, FOUR MEMBERS MUST HAVE EACH BEEN UNAFFILIATED WITH ANY POLITICAL PARTY OR REGISTERED WITH A POLITICAL PARTY OTHER THAN THE STATE'S TWO LARGEST POLITICAL PARTIES. SUCH MEMBERS ARE REFERRED TO IN THIS SECTION AND SECTIONS 48.3 AND 48.5 OF THIS ARTICLE V AS THE "INDEPENDENT MEMBERS" OF THE COMMISSION OR THE "INDEPENDENT COMMISSIONERS". THE INDEPENDENT MEMBERS SHALL BE APPOINTED IN ACCORDANCE WITH SUBSECTION (7) OF THIS SECTION.

(3) ALL COMMISSIONERS MUST BE REGISTERED ELECTORS OF THE STATE OF COLORADO. NO COMMISSIONER MAY BE AN INCUMBENT MEMBER OF THE GENERAL ASSEMBLY OR A CANDIDATE FOR THE GENERAL ASSEMBLY.

(4) (a) NO MORE THAN THREE MEMBERS OF THE COMMISSION MAY RESIDE IN ANY SINGLE CONGRESSIONAL DISTRICT. AT LEAST ONE MEMBER MUST RESIDE IN EACH CONGRESSIONAL DISTRICT.

(b) AT LEAST ONE MEMBER OF THE COMMISSION MUST RESIDE IN EACH OF THE FOLLOWING TWO AREAS OF THE STATE. ANY REFERENCE IN THIS SECTION TO A "GEOGRAPHIC AREA" REFERS TO THESE AREAS:

(I) WEST OF THE CONTINENTAL DIVIDE; AND

(II) EAST OF THE CONTINENTAL DIVIDE AND EITHER SOUTH OF EL PASO COUNTY'S SOUTHERN BOUNDARY OR EAST OF ARAPAHOE COUNTY'S EASTERN BOUNDARY.

(5) ALL APPOINTEES TO THE COMMISSION SHALL BE SUBJECT TO AN APPLICATION PROCESS AS FOLLOWS:

(a) NO LATER THAN FEBRUARY 1 OF THE REDISTRICTING YEAR, THE SECRETARY OF STATE SHALL ESTABLISH AND ANNOUNCE AN APPLICATION PROCESS FOR PERSONS DESIRING TO SERVE AS MEMBERS OF THE COMMISSION. THE PROCESS MUST INCLUDE AN APPLICATION FORM THAT MUST BE SUBMITTED ELECTRONICALLY TO THE SECRETARY OF STATE. IN ADDITION, THE SECRETARY OF STATE SHALL CONSULT AND COORDINATE WITH THE STATE'S COUNTY CLERK AND RECORDERS TO DEVELOP AND IMPLEMENT A PROGRAM TO ADVERTISE AND ENCOURAGE APPLICATIONS FROM ELIGIBLE PERSONS FROM ACROSS THE STATE.

(b) THE APPLICATION FORM MUST CLEARLY STATE LEGAL OBLIGATIONS AND EXPECTATIONS OF POTENTIAL APPOINTEES. INFORMATION REQUIRED OF APPLICANTS MUST INCLUDE, BUT NOT NECESSARILY BE LIMITED TO, PROFESSIONAL BACKGROUND, PARTY AFFILIATION, A DESCRIPTION OF PAST POLITICAL ACTIVITY, AND A LIST OF POLITICAL AND CIVIC ORGANIZATIONS TO WHICH THE APPLICANT HAS BELONGED WITHIN THE PREVIOUS FIVE YEARS. IN ADDITION, THE APPLICATION FORM MUST REQUIRE THE APPLICANT TO EXPLAIN WHY THE APPLICANT WANTS TO SERVE ON THE COMMISSION AND AFFORD APPLICANTS AN OPPORTUNITY TO MAKE A STATEMENT ABOUT HOW THE APPLICANT WILL PROMOTE CONSENSUS AMONG COMMISSIONERS IF APPOINTED TO THE COMMISSION. APPLICANTS MAY ALSO CHOOSE TO INCLUDE UP TO FOUR LETTERS OF RECOMMENDATION WITH THEIR APPLICATION.

(c) APPLICATIONS MUST BE SUBMITTED NO LATER THAN MARCH 10 OF THE REDISTRICTING YEAR. WITHIN THREE BUSINESS DAYS THEREAFTER, THE SECRETARY OF STATE SHALL POST ALL APPLICATIONS ON THE SECRETARY OF STATE'S WEBSITE.

(6) APPOINTMENTS OF MEMBERS REGISTERED WITH THE STATE'S TWO LARGEST POLITICAL PARTIES MUST BE MADE FROM THE APPLICANTS WHO SUBMITTED APPLICATIONS TO THE SECRETARY OF STATE. NO APPOINTEE MAY RESIDE IN THE SAME CONGRESSIONAL DISTRICT OR THE SAME GEOGRAPHIC AREA AS ANY PREVIOUS APPOINTEE UNTIL ONE APPOINTMENT HAS BEEN MADE FROM EACH CONGRESSIONAL DISTRICT AND EACH GEOGRAPHIC AREA. FOR EACH APPOINTMENT, THE APPOINTING AUTHORITY MUST DESIGNATE ONE ALTERNATE WHO RESIDES IN THE SAME CONGRESSIONAL DISTRICT OR GEOGRAPHIC AREA AS THE APPOINTEE FOR WHOM HE OR SHE IS AN ALTERNATE. IF ANY OF THE EIGHT APPOINTMENTS MADE ACCORDING TO THIS SUBSECTION (6) VACATES HIS OR HER POSITION AT ANY TIME DURING HIS OR HER TERM, SUCH VACANCY SHALL BE FILLED BY THE DESIGNATED ALTERNATE. IF ANY APPOINTING AUTHORITY FAILS TO MAKE HIS OR HER APPOINTMENT BY A DATE REQUIRED IN THIS SUBSECTION (6), THEN SUCH APPOINTMENT IS

FORFEITED, AND THE NUMBER OF COMMISSIONERS COMPRISING THE COMMISSION IS REDUCED ACCORDINGLY. APPOINTMENTS MUST BE MADE ACCORDING TO THE FOLLOWING SCHEDULE IN THE REDISTRICTING YEAR:

(a) NO LATER THAN MARCH 18, THE SENATE MAJORITY LEADER SHALL APPOINT ONE MEMBER AND DESIGNATE ONE ALTERNATE.

(b) BETWEEN MARCH 19 AND MARCH 21, THE SENATE MINORITY LEADER SHALL APPOINT ONE MEMBER AND DESIGNATE ONE ALTERNATE.

(c) BETWEEN MARCH 22 AND MARCH 24, THE HOUSE MAJORITY LEADER SHALL APPOINT ONE MEMBER AND DESIGNATE ONE ALTERNATE.

(d) BETWEEN MARCH 25 AND MARCH 28, THE HOUSE MINORITY LEADER SHALL APPOINT TWO MEMBERS AND DESIGNATE TWO ALTERNATES.

(e) BETWEEN MARCH 29 AND MARCH 31, THE HOUSE MAJORITY LEADER SHALL APPOINT ONE MEMBER AND DESIGNATE ONE ALTERNATE.

(f) BETWEEN APRIL 1 AND APRIL 3, THE SENATE MINORITY LEADER SHALL APPOINT ONE MEMBER AND DESIGNATE ONE ALTERNATE.

(g) BETWEEN APRIL 4 AND APRIL 6, THE SENATE MAJORITY LEADER SHALL APPOINT ONE MEMBER AND ONE ALTERNATE.

(7) INDEPENDENT APPOINTEES TO THE COMMISSION SHALL BE SELECTED AS FOLLOWS:

(a) NO LATER THAN APRIL 1, THE SECRETARY OF STATE SHALL EXAMINE EACH APPLICATION FOR APPOINTMENT AS AN INDEPENDENT MEMBER OF THE COMMISSION, ISSUE AN ELIGIBILITY FINDING WHETHER THE APPLICANT MEETS THE QUALIFICATION SPECIFIED IN SUBSECTIONS (2)(c) AND (3) OF THIS SECTION, POST THE FINDING ON THE SECRETARY OF STATE'S WEBSITE, AND NOTIFY THE APPLICANT BY ELECTRONIC MAIL OF THE SECRETARY OF STATE'S FINDING. IF THE SECRETARY OF STATE FINDS THAT AN APPLICANT IS NOT ELIGIBLE, THEN THE SECRETARY OF STATE SHALL INCLUDE THE REASONS THEREFOR IN HIS OR HER FINDING. IF THE SECRETARY OF STATE FINDS THAT AN APPLICANT IS NOT ELIGIBLE, THE APPLICANT MAY WITHDRAW HIS OR HER APPLICATION OR SUBMIT A BRIEF STATEMENT DISPUTING THE FINDING WITHIN THREE BUSINESS DAYS AFTER THE DATE OF THE SECRETARY OF STATE'S ELECTRONIC MAIL NOTIFICATION, WHICH STATEMENT SHALL BE POSTED PROMPTLY WITH THE SECRETARY OF STATE'S FINDING. IF AN APPLICANT SUBMITS A STATEMENT DISPUTING THE SECRETARY OF STATE'S FINDING OF INELIGIBILITY, THE APPLICANT MAY BE

CONSIDERED BY THE PANEL IN ACCORDANCE WITH SUBSECTION (7)(d) OF THIS SECTION IF THE PANEL DETERMINES THAT THE APPLICANT IS ELIGIBLE.

(b) NO LATER THAN MARCH 20 OF THE REDISTRICTING YEAR, THE SECRETARY OF STATE SHALL DESIGNATE A PANEL TO REVIEW THE APPLICATIONS FOR APPOINTMENT AS AN INDEPENDENT MEMBER OF THE COMMISSION. THE PANEL MUST CONSIST OF THE THREE JUSTICES OR JUDGES WHO MOST RECENTLY RETIRED FROM THE COLORADO SUPREME COURT OR THE COLORADO COURT OF APPEALS, APPOINTED SEQUENTIALLY STARTING WITH THE MOST RECENT JUSTICE OR JUDGE TO RETIRE WHO HAS BEEN AFFILIATED WITH THE SAME POLITICAL PARTY OR UNAFFILIATED WITH ANY POLITICAL PARTY FOR THE TWO YEARS PRIOR TO APPOINTMENT, EXCEPT THAT NO APPOINTEE, WITHIN TWO YEARS PRIOR TO APPOINTMENT, SHALL HAVE BEEN AFFILIATED WITH THE SAME POLITICAL PARTY AS A JUSTICE OR JUDGE ALREADY APPOINTED TO THE PANEL. IF ANY OF THE THREE JUSTICES OR JUDGES WHO MOST RECENTLY RETIRED FROM THE COLORADO SUPREME COURT OR THE COLORADO COURT OF APPEALS IS UNABLE OR UNWILLING TO SERVE ON THE PANEL OR HAS BEEN AFFILIATED WITHIN TWO YEARS PRIOR TO APPOINTMENT WITH A POLITICAL PARTY ALREADY REPRESENTED ON THE PANEL, THEN THE SECRETARY OF STATE SHALL APPOINT THE NEXT JUSTICE OR JUDGE WHO MOST RECENTLY RETIRED FROM THE COLORADO SUPREME COURT OR THE COLORADO COURT OF APPEALS AND WHO HAS NOT BEEN AFFILIATED WITHIN TWO YEARS PRIOR TO APPOINTMENT WITH THE SAME POLITICAL PARTY AS ANY JUSTICE OR JUDGE ALREADY APPOINTED TO THE PANEL. IF, AFTER CONSIDERING ALL JUSTICES AND JUDGES WHO HAVE RETIRED FROM THE COLORADO SUPREME COURT AND THE COLORADO COURT OF APPEALS, FEWER THAN THREE ELIGIBLE PARTICIPANTS FOR THE PANEL HAVE BEEN IDENTIFIED, THE SECRETARY OF STATE SHALL APPOINT THE MOST RECENTLY RETIRED DISTRICT COURT JUDGE WHO HAS NOT BEEN AFFILIATED WITHIN TWO YEARS PRIOR TO APPOINTMENT WITH THE SAME POLITICAL PARTY AS ANY PREVIOUS APPOINTEE TO THE PANEL AND WHO ACCEPTS SUCH APPOINTMENT. UPON REQUEST OF THE SECRETARY OF STATE, THE STATE COURT ADMINISTRATOR SHALL PROVIDE INFORMATION ABOUT JUSTICES AND JUDGES WHO RECENTLY RETIRED FROM THE COLORADO SUPREME COURT, THE COLORADO COURT OF APPEALS, AND THE STATE'S DISTRICT COURTS AS MAY BE NECESSARY FOR THE SECRETARY OF STATE TO PERFORM HIS OR HER DUTIES UNDER THIS SUBSECTION (7)(b).

(c) THE SECRETARY OF STATE SHALL REIMBURSE MEMBERS OF THE PANEL FOR NECESSARY TRAVEL AND OTHER REASONABLE EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES AND SHALL COMPENSATE MEMBERS OF THE PANEL FOR EACH DAY THAT THE PANEL MEETS IN AN AMOUNT

EQUAL TO ONE-TWENTIETH OF THE MONTHLY SALARY THEN CURRENTLY APPLICABLE TO ASSOCIATE JUSTICES OF THE COLORADO SUPREME COURT. SUCH REIMBURSEMENT AND COMPENSATION MUST NOT AFFECT A MEMBER'S JUDICIAL SERVICE RETIREMENT BENEFITS.

(d) IN ONE OR MORE PUBLIC HEARINGS OPEN TO PUBLIC TESTIMONY AND CONDUCTED IN ACCORDANCE WITH PROCEDURES DETERMINED BY THE PANEL, THE PANEL SHALL SELECT TWENTY ELIGIBLE APPLICANTS IT UNANIMOUSLY RECOMMENDS FOR APPOINTMENT AS INDEPENDENT MEMBERS OF THE COMMISSION, OR SUCH LESSER NUMBER AS THERE ARE TOTAL ELIGIBLE APPLICANTS. THE NONPARTISAN RESEARCH STAFF OF THE GENERAL ASSEMBLY SHALL PROVIDE STAFF ASSISTANCE TO THE PANEL FOR SUCH MEETINGS UPON THE REQUEST OF ANY MEMBER OF THE PANEL. THE PANEL MAY DETERMINE THE ELIGIBILITY OF ANY APPLICANT WHOSE QUALIFICATIONS UNDER SUBSECTIONS (2)(c) AND (3) OF THIS SECTION ARE IN QUESTION. THE PANEL SHALL, TO THE EXTENT PRACTICAL, RECOMMEND APPLICANTS WHO REPRESENT COLORADO'S RACIAL, ETHNIC, GENDER, AND GEOGRAPHIC DIVERSITY, TAKING INTO CONSIDERATION THE GEOGRAPHIC REPRESENTATION REQUIREMENTS OF SUBSECTION (4) OF THIS SECTION AND THE GEOGRAPHIC REPRESENTATION OF THE EIGHT COMMISSIONERS PREVIOUSLY APPOINTED BY THE SENATE MAJORITY LEADER, THE SENATE MINORITY LEADER, THE HOUSE MAJORITY LEADER, AND THE HOUSE MINORITY LEADER. TO THE EXTENT POSSIBLE, THE PANEL SHALL RECOMMEND NO FEWER THAN THREE APPLICANTS FROM EACH UNREPRESENTED CONGRESSIONAL DISTRICT AND EACH UNREPRESENTED GEOGRAPHIC AREA. ADDITIONALLY, THE PANEL SHALL RECOMMEND THOSE APPLICANTS WHO IT FINDS TO BE MOST QUALIFIED TO PERFORM THE DUTIES OF THE COMMISSION, WHO DO NOT DEMONSTRATE ALLEGIANCE OR FIDELITY TO EITHER OF THE STATE'S TWO LARGEST POLITICAL PARTIES, WHO ARE BEST ABLE TO NEUTRALLY APPLY AND ADMINISTER THEIR RESPONSIBILITIES AS COMMISSIONERS, AND WHO ARE MOST LIKELY TO PROMOTE CONSENSUS AMONG COMMISSIONERS. MEMBERS OF THE PANEL SHALL HAVE NO EX PARTE COMMUNICATIONS REGARDING THE PERFORMANCE OF THEIR DUTIES UNDER THIS SUBSECTION (7)(d).

(e) THE PANEL SHALL ISSUE ITS RECOMMENDATIONS NO LATER THAN APRIL 23 OF THE REDISTRICTING YEAR. THE PANEL SHALL FORWARD ITS RECOMMENDATIONS TO THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL, THE SENATE MAJORITY LEADER, THE SENATE MINORITY LEADER, THE HOUSE MAJORITY LEADER, THE HOUSE MINORITY LEADER, AND THE SECRETARY OF STATE, WHO SHALL PROMPTLY POST THE PANEL'S RECOMMENDATIONS ON THE SECRETARY OF STATE'S WEBSITE.

(f) NO LATER THAN APRIL 30 OF THE REDISTRICTING YEAR, THE SECRETARY OF STATE SHALL, IN A PUBLIC MEETING HELD AFTER NOTICE, RANDOMLY SELECT THE FOUR INDEPENDENT MEMBERS FROM THE APPLICANTS RECOMMENDED BY THE PANEL AS FOLLOWS:

(I) FOR EACH CONGRESSIONAL DISTRICT OR GEOGRAPHIC AREA UNREPRESENTED BY THE EIGHT APPOINTMENTS MADE BY THE SENATE MAJORITY LEADER, THE SENATE MINORITY LEADER, THE HOUSE MAJORITY LEADER, AND THE HOUSE MINORITY LEADER, THE SECRETARY OF STATE SHALL RANDOMLY SELECT THE NAME OF ONE APPLICANT FROM ALL RECOMMENDED APPLICANTS WHO RESIDE IN THAT CONGRESSIONAL DISTRICT OR GEOGRAPHIC AREA TO SERVE AS AN APPOINTEE TO THE COMMISSION. THE NAMES OF RECOMMENDED APPLICANTS NOT SELECTED MUST THEN BE INCLUDED IN THE POOL OF RECOMMENDED APPLICANTS FOR FURTHER CONSIDERATION PURSUANT TO SUBSECTION (7)(f)(II) OF THIS SECTION.

(II) FROM AMONG THE APPLICANTS REMAINING AFTER COMPLETING THE SELECTION OF INDEPENDENT MEMBERS PURSUANT TO SUBSECTION (7)(f)(I) OF THIS SECTION, THE SECRETARY OF STATE SHALL RANDOMLY SELECT SUCH NUMBER OF APPLICANTS AS NECESSARY SO THAT THE TOTAL NUMBER OF SELECTIONS MADE PURSUANT TO THIS SUBSECTION (7)(f) TOTALS FOUR; EXCEPT THAT, IF THE SELECTION OF ANY APPLICANT WOULD RESULT IN MORE THAN THREE COMMISSIONERS RESIDING IN A SINGLE CONGRESSIONAL DISTRICT, CONTRARY TO SECTION 48 (4)(a) OF THIS ARTICLE V, THEN THE SECRETARY OF STATE SHALL DISCARD THAT SELECTION AND CONTINUE TO RANDOMLY SELECT APPLICANTS UNTIL THE TOTAL NUMBER OF SELECTIONS MADE PURSUANT TO THIS SUBSECTION (7)(f) TOTALS FOUR AND NO MORE THAN THREE COMMISSIONERS RESIDE IN A SINGLE CONGRESSIONAL DISTRICT. THE FOUR APPLICANTS CHOSEN UPON CONCLUSION OF THE PROCESS DESCRIBED IN THIS SUBSECTION (7)(f) SHALL BECOME THE INDEPENDENT COMMISSIONERS.

(III) THE SECRETARY OF STATE SHALL THEN RANDOMLY SELECT FOUR ADDITIONAL NAMES FROM THE REMAINING APPLICANTS. THESE FOUR APPLICANTS SHALL SERVE AS ALTERNATES AND SHALL BE NUMBERED CONSECUTIVELY AS ALTERNATE ONE, ALTERNATE TWO, ALTERNATE THREE, AND ALTERNATE FOUR. THE ALTERNATES SHALL, IN ORDER AND IRRESPECTIVE OF CONGRESSIONAL DISTRICT OR GEOGRAPHIC AREA, FILL ANY VACANCIES BY THE INDEPENDENT COMMISSIONERS DURING THEIR TERMS.

(8) FOR PURPOSES OF THIS SECTION, THE STATE'S TWO LARGEST POLITICAL PARTIES SHALL BE DETERMINED BY THE NUMBER OF REGISTERED ELECTORS AFFILIATED WITH EACH POLITICAL PARTY IN THE STATE ACCORDING TO VOTER REGISTRATION DATA PUBLISHED BY THE SECRETARY OF STATE

FOR THE EARLIEST DAY IN JANUARY OF THE REDISTRICTING YEAR FOR WHICH SUCH DATA IS PUBLISHED.

SECTION 4. In the constitution of the state of Colorado, add sections 48.3 and 48.5 to article V as follows:

Section 48.3. Commission organization – procedures – transparency – voting requirements. (1) THE GOVERNOR SHALL CONVENE THE COMMISSION NO LATER THAN MAY 15 OF THE REDISTRICTING YEAR, APPOINTING A TEMPORARY CHAIRPERSON FROM THE COMMISSION'S MEMBERS. UPON CONVENING, THE COMMISSION SHALL ELECT A CHAIR AND A VICE-CHAIR, WHO MUST NOT BE MEMBERS OF THE SAME POLITICAL PARTY, AND SUCH OTHER OFFICERS AS IT DETERMINES.

(2) THE DIRECTORS OF THE NONPARTISAN RESEARCH AND LEGAL STAFFS OF THE GENERAL ASSEMBLY SHALL APPOINT NONPARTISAN STAFF FROM THEIR RESPECTIVE OFFICES AS NEEDED TO ASSIST THE COMMISSION. AS FAR IN ADVANCE AS NECESSARY TO ENABLE THE COMMISSION TO BEGIN ITS WORK IMMEDIATELY UPON CONVENING, THE NONPARTISAN STAFF SHALL ACQUIRE AND PREPARE ALL NECESSARY RESOURCES, INCLUDING HARDWARE, SOFTWARE, AND DEMOGRAPHIC, GEOGRAPHIC, AND POLITICAL DATABASES.

(3) THE COMMISSION MAY RETAIN LEGAL COUNSEL IN ALL ACTIONS AND PROCEEDINGS IN CONNECTION WITH THE PERFORMANCE OF ITS POWERS, DUTIES, AND FUNCTIONS, INCLUDING REPRESENTATION OF THE COMMISSION BEFORE THE SUPREME COURT PURSUANT TO SECTION 48.5 (7) OF THIS ARTICLE V.

(4) THE GENERAL ASSEMBLY SHALL APPROPRIATE SUFFICIENT FUNDS FOR THE COMPENSATION AND PAYMENT OF THE EXPENSES OF THE COMMISSION AND ITS STAFF. SUBJECT TO AVAILABLE APPROPRIATIONS, HARDWARE AND SOFTWARE NECESSARY FOR THE DEVELOPMENT OF PLANS MAY, AT THE REQUEST OF ANY COMMISSIONER, BE PROVIDED TO SUCH COMMISSIONER. THE COMMISSION AND ITS STAFF SHALL HAVE ACCESS TO STATISTICAL INFORMATION COMPILED BY THE STATE AND ITS POLITICAL SUBDIVISIONS AND NECESSARY FOR ITS DUTIES. STATE AGENCIES AND POLITICAL SUBDIVISIONS SHALL COMPLY WITH REQUESTS FROM THE COMMISSION AND ITS STAFF FOR SUCH STATISTICAL INFORMATION.

(5) THE COMMISSION SHALL ADOPT RULES TO GOVERN ITS ADMINISTRATION AND OPERATION, INCLUDING BUT NOT LIMITED TO THE FOLLOWING:

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

(b) THE PROCESS FOR REMOVING COMMISSIONERS FOR VIOLATING PUBLIC DISCLOSURE OR OPEN MEETINGS PROVISIONS OF THIS SECTION, OR PARTICIPATING IN COMMUNICATIONS PROHIBITED UNDER THIS SECTION;

(c) PROVIDING FOR ANY VACANCY CREATED BY THE DEATH, RESIGNATION, OR REMOVAL OF A COMMISSIONER, OR OTHERWISE, WHICH SHALL BE FILLED BY THE ALTERNATE DETERMINED AS PROVIDED IN SECTION 48 OF THIS ARTICLE V, OR IF SUCH ALTERNATE IS UNWILLING OR UNABLE TO SERVE, BY THE RESPECTIVE APPOINTING AUTHORITY. MEMBERS OF THE COMMISSION SHALL HOLD OFFICE UNTIL APRIL 30 OF THE NEXT REDISTRICTING YEAR.

(d) THE PROCESS FOR RECOMMENDING CHANGES TO PLANS SUBMITTED TO THE COMMISSION BY NONPARTISAN STAFF; AND

(e) THE ADOPTION OF A STATEWIDE MEETING AND HEARING SCHEDULE.

(6) (a) EXCEPT AS PROVIDED IN SUBSECTION (6)(b) OF THIS SECTION, THE COMMISSION IS SUBJECT TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, COLORADO REVISED STATUTES, OR ANY SUCCESSOR ACT.

(b) MAPS IN DRAFT FORM AND NOT SUBMITTED TO THE COMMISSION ARE NOT PUBLIC RECORDS SUBJECT TO DISCLOSURE. WORK PRODUCT AND COMMUNICATIONS BETWEEN COMMISSION STAFF ARE SUBJECT TO DISCLOSURE ONCE A PLAN IS SUBMITTED TO THE SUPREME COURT.

(7) (a) THE COMMISSION IS SUBJECT TO THE OPEN MEETINGS PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972" CONTAINED IN PART 4 OF ARTICLE 6 OF TITLE 24, COLORADO REVISED STATUTES, OR ANY SUCCESSOR ACT. FURTHERMORE, COMMUNICATIONS OUTSIDE OF A PUBLIC MEETING RELATING TO COMMISSION BUSINESS THAT INVOLVE MORE THAN THREE COMMISSIONERS ARE PROHIBITED.

(b) EXCEPT AS PROVIDED IN SUBSECTIONS (7)(c) AND (7)(d) OF THIS SECTION, COMMISSIONERS SHALL NOT COMMUNICATE WITH THE COMMISSION'S STAFF ON THE MAPPING OF LEGISLATIVE DISTRICTS UNLESS THE COMMUNICATION IS DURING A PUBLIC MEETING OR HEARING OF THE COMMISSION.

(c) EXCEPT FOR PUBLIC INPUT AND COMMENT SUCH AS IS PROVIDED FOR IN SECTION 48.5 (1)(c) AND SECTION 48.5 (4) OF THIS ARTICLE V, THE COMMISSION'S STAFF MEMBERS SHALL NOT HAVE ANY COMMUNICATIONS ABOUT THE CONTENT OR DEVELOPMENT OF ANY PLAN OUTSIDE OF PUBLIC HEARINGS WITH ANYONE EXCEPT OTHER STAFF MEMBERS. STAFF SHALL REPORT TO THE COMMISSION ANY ATTEMPT BY ANYONE TO EXERT INFLUENCE OVER THE DRAFTING OF PLANS.

(d) ONE OR MORE STAFF MAY BE DESIGNATED TO COMMUNICATE WITH COMMISSIONERS REGARDING ADMINISTRATIVE MATTERS, THE DEFINITION AND SCOPE OF WHICH SHALL BE DETERMINED BY THE COMMISSION.

(e) ANY COMMISSIONER WHO PARTICIPATES IN A COMMUNICATION PROHIBITED IN THIS SECTION SHALL BE REMOVED FROM THE COMMISSION AND REPLACED WITHIN SEVEN DAYS ACCORDING TO COMMISSION RULES.

(f) AT THE DIRECTION OF THE COMMISSION, ITS STAFF MAY CONSULT WITH EXPERTS RETAINED BY THE COMMISSION. WORK PRODUCT AND COMMUNICATIONS BETWEEN COMMISSION STAFF AND SUCH EXPERTS ARE SUBJECT TO DISCLOSURE UNDER THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, COLORADO REVISED STATUTES, OR ANY SUCCESSOR ACT, ONCE A PLAN IS SUBMITTED TO THE SUPREME COURT.

(8) ANY PERSON WHO RECEIVES COMPENSATION FOR ADVOCATING TO THE COMMISSION OR ITS MEMBERS CONCERNING THE ADOPTION OF ANY PLAN, ANY AMENDMENT TO A PLAN, PLAN APPROACH, OR MANNER OF COMPLIANCE WITH ANY OF THE PLAN CRITERIA SET FORTH IN SECTION 47 OF THIS ARTICLE V, OTHER THAN COMMISSION STAFF, IS A "PROFESSIONAL LOBBYIST" AS DEFINED IN SECTION 24-6-301(6), COLORADO REVISED STATUTES, OR ANY SUCCESSOR STATUTE, AND SHALL COMPLY WITH THE REQUIREMENTS APPLICABLE TO PROFESSIONAL LOBBYISTS, INCLUDING REGISTRATION AND FILING DISCLOSURE STATEMENTS, CONTAINED IN PART 3 OF ARTICLE 6 OF TITLE 24, COLORADO REVISED STATUTES, OR ANY SUCCESSOR STATUTES.

(9) ANY MOTION ADOPTED BY THE COMMISSION, INCLUDING THE ELECTION OF ITS OFFICERS AND THE AMENDMENT OF ANY PLAN, REQUIRES THE AFFIRMATIVE VOTE OF AT LEAST EIGHT COMMISSIONERS, INCLUDING THE AFFIRMATIVE VOTE OF AT LEAST ONE INDEPENDENT COMMISSIONER. APPROVAL OF THE PRELIMINARY PLAN PURSUANT TO SECTION 48.5 (2) OF THIS ARTICLE V, ADOPTION OF THE FINAL PLAN FOR SUBMISSION TO THE SUPREME COURT PURSUANT TO SECTION 48.5 (6) OF THIS ARTICLE V, AND ADOPTION OF A REVISED PLAN PURSUANT TO SECTION 48.5

(7) OF THIS ARTICLE V MUST ALSO INCLUDE THE AFFIRMATIVE VOTE OF AT LEAST TWO INDEPENDENT COMMISSIONERS.

(10) THE COMMISSION SHALL NOT VOTE UPON A FINAL PLAN UNTIL AT LEAST SEVENTY-TWO HOURS AFTER IT HAS BEEN PROPOSED TO THE COMMISSION IN A PUBLIC MEETING OR AMENDED BY THE COMMISSION, WHICHEVER OCCURS LATER, UNLESS COMMISSIONERS UNANIMOUSLY WAIVE SUCH REQUIREMENT.

Section 48.5. Preparation, amendment, and approval of plans. (1) (a) THE COMMISSION SHALL BEGIN BY CONSIDERING PLANS CREATED BY ITS STAFF ALONE. PRIOR TO THE COMMISSION'S CONSIDERATION OF A PRELIMINARY PLAN, ITS NONPARTISAN STAFF SHALL PREPARE AND PRESENT TO THE COMMISSION NO FEWER THAN FOUR PLANS, EXCEPT AS PROVIDED IN SUBSECTION (1)(e) OF THIS SECTION. THESE PLANS SHALL BE KNOWN AS THE STAFF PLANS AND MUST BE NAMED AND NUMBERED SEQUENTIALLY FOR PURPOSES OF SUBSECTION (2) OF THIS SECTION. THE STAFF PLANS SHALL BE PREPARED, PUBLISHED ONLINE, AND PRESENTED ON A TIMETABLE ESTABLISHED BY THE COMMISSION, EXCEPT EACH STAFF PLAN SHALL BE PRESENTED TO THE COMMISSION NO FEWER THAN TEN DAYS AFTER THE PRESENTATION OF ANY PREVIOUS STAFF PLAN, AND EACH STAFF PLAN MUST BE PRESENTED TO THE COMMISSION NO FEWER THAN TWENTY-FOUR HOURS AFTER IT HAS BEEN PUBLISHED ONLINE. IF THE COMMISSION FAILS TO ESTABLISH A TIMETABLE FOR PRESENTATION OF STAFF PLANS BY JUNE 10 OF THE REDISTRICTING YEAR, STAFF SHALL ESTABLISH SUCH TIMETABLE. STAFF SHALL KEEP EACH PLAN PREPARED CONFIDENTIAL UNTIL IT IS PUBLISHED ONLINE.

(b) AT THE FIRST PUBLIC HEARING AT WHICH THE FIRST STAFF PLAN IS CONSIDERED, THE STAFF SHALL EXPLAIN HOW THE PLAN WAS CREATED AND HOW THE PLAN COMPLIES WITH THE CRITERIA PRESCRIBED IN SECTIONS 46 (2) AND 47 OF THIS ARTICLE V. THE COMMISSION MAY, UPON MOTION ADOPTED IN ACCORDANCE WITH SECTION 48.3 (9) OF THIS ARTICLE V, ADOPT CERTAIN PROVISIONS, ELEMENTS, OR TECHNIQUES, SUCH AS PLAN COMPONENTS, ELEMENTS OF PUBLIC TESTIMONY, OR A DEFINITION OF COMPETITIVENESS, TO WHICH STAFF SHALL ADHERE IN DEVELOPING A STAFF PLAN. IN PREPARING STAFF PLANS, STAFF MAY ALSO CONSIDER PUBLIC TESTIMONY AND PUBLIC COMMENTS RECEIVED BY THE COMMISSION THAT ARE CONSISTENT WITH THE CRITERIA SPECIFIED IN SECTIONS 46 AND 47 OF THIS ARTICLE V.

(c) SUBJECT TO AVAILABLE APPROPRIATIONS, THE COMMISSION SHALL MAKE USE OF REASONABLY AVAILABLE CURRENT TECHNOLOGY TO FACILITATE PUBLIC INPUT AND COMMENT ON THE WORK OF THE COMMISSION. AT A MINIMUM, THE COMMISSION SHALL ENSURE THE FOLLOWING:

(I) THE PUBLIC HAS THE ABILITY TO SUBMIT WRITTEN COMMENTS REGARDING PLANS AND SUGGEST PROPOSALS FOR PLANS, CONCEPTS FOR PLANS, AND AMENDMENTS TO PLANS AT ANY TIME VIA ELECTRONIC MEANS, STARTING NO LATER THAN THE INTRODUCTION OF THE FIRST STAFF PLAN. DURING PUBLIC MEETINGS OF THE COMMISSION, ANY COMMISSIONER MAY REQUEST THAT STAFF PREPARE FOR THE COMMISSION'S CONSIDERATION A PLAN PROPOSAL, PLAN CONCEPT, OR PLAN AMENDMENT SUGGESTED BY A MEMBER OF THE PUBLIC, IN ACCORDANCE WITH SUBSECTION (1)(d) OF THIS SECTION.

(II) THE PUBLIC HAS ADEQUATE OPPORTUNITY TO COMMENT DURING THE PLAN DEVELOPMENT PROCESS, INCLUDING, BUT NOT NECESSARILY LIMITED TO, AN OPPORTUNITY TO COMMENT AFTER THE PUBLICATION OF EACH STAFF PLAN AND PRIOR TO ANY VOTE TO APPROVE A PRELIMINARY PLAN OR TO ADOPT A FINAL PLAN.

(d) ANY MEMBER OF THE COMMISSION OR GROUP OF MEMBERS MAY REQUEST STAFF TO PREPARE ADDITIONAL PLANS OR AMENDMENTS TO PLANS. ANY SUCH REQUEST MUST BE MADE IN A PUBLIC HEARING OF THE COMMISSION BUT DOES NOT REQUIRE COMMISSION APPROVAL. PLANS OR AMENDMENTS DEVELOPED IN RESPONSE TO SUCH REQUESTS ARE SEPARATE FROM STAFF PLANS FOR PURPOSES OF SUBSECTION (2) OF THIS SECTION.

(e) THE COMMISSION MAY ADOPT A PRELIMINARY PLAN AT ANY TIME AFTER PRESENTATION OF THE FIRST STAFF PLAN, IN WHICH CASE THE STAFF DOES NOT NEED TO PREPARE OR PRESENT ADDITIONAL STAFF PLANS.

(2) WITHIN ONE HUNDRED THREE DAYS AFTER THE COMMISSION HAS BEEN CONVENED OR THE NECESSARY CENSUS DATA ARE AVAILABLE, WHICHEVER IS LATER, THE COMMISSION SHALL PUBLISH A PRELIMINARY PLAN. IF FOR ANY REASON THE COMMISSION DOES NOT APPROVE A PRELIMINARY PLAN FOR BOTH HOUSES BY SUCH DATE, THEN THE COMMISSION SHALL PUBLISH THE FOURTH STAFF PLAN AS THE COMMISSION'S PRELIMINARY PLAN. IF THE COMMISSION APPROVES DISTRICTS FOR ONE HOUSE OF THE GENERAL ASSEMBLY BUT NOT THE OTHER HOUSE, THEN THE PLAN FOR THE APPROVED HOUSE SHALL BE PUBLISHED AS THE PRELIMINARY PLAN FOR THAT HOUSE, AND THE FOURTH STAFF PLAN FOR THE HOUSE FOR WHICH THE COMMISSION DID NOT ADOPT A PLAN SHALL BE PUBLISHED AS THE PRELIMINARY PLAN FOR THAT HOUSE.

(3) FOLLOWING THE ADOPTION OF A PRELIMINARY PLAN AND PRIOR TO THE HOLDING OF PUBLIC HEARINGS ON ANY PRELIMINARY PLAN, THE COMMISSION SHALL POST THE PLAN ELECTRONICALLY FOR PUBLIC INSPECTION. DATE FILED: December 13, 2017 1:49 PM

(4) WITHIN FORTY-FIVE DAYS AFTER THE DATE OF THE PUBLICATION OF THE PRELIMINARY PLAN, THE COMMISSION SHALL COMPLETE PUBLIC HEARINGS ON THE PRELIMINARY PLAN IN SEVERAL PLACES THROUGHOUT THE STATE. THE COMMISSION SHALL HOLD NO FEWER THAN THREE HEARINGS IN EACH CONGRESSIONAL DISTRICT, AND THE COMMISSION MUST CONDUCT AT LEAST ONE HEARING IN PERSON IN EACH CONGRESSIONAL DISTRICT. OTHER HEARINGS MAY BE CONDUCTED REMOTELY, THROUGH VIDEO-CONFERENCE OR OTHER AVAILABLE TECHNOLOGY. IN NO CASE, HOWEVER, SHALL THE COMMISSION CONDUCT FEWER THAN TWO IN-PERSON HEARINGS WEST OF THE CONTINENTAL DIVIDE OR FEWER THAN TWO IN-PERSON HEARINGS FROM SOUTH OF EL PASO COUNTY AND EAST OF THE CONTINENTAL DIVIDE.

(5) SUBSEQUENT TO HEARINGS ON THE PRELIMINARY PLAN, THE COMMISSION SHALL RECONVENE. ANY MEMBER OF THE COMMISSION OR GROUP OF MEMBERS MAY REQUEST THE COMMISSION'S STAFF TO PREPARE ADDITIONAL PLANS OR AMENDMENTS TO PLANS, BUT SUCH REQUESTS MUST BE MADE IN A PUBLIC HEARING OF THE COMMISSION.

(6) (a) 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 IN ACCORDANCE WITH SUBSECTION (7) OF THIS SECTION.

(b) THE COMMISSION MAY ADJUST THE DEADLINES SPECIFIED IN THIS SECTION IF CONDITIONS OUTSIDE OF THE COMMISSION'S CONTROL REQUIRE SUCH AN ADJUSTMENT TO ENSURE ADOPTING A FINAL PLAN AS REQUIRED BY THIS SUBSECTION (6).

(c) THE COMMISSION MAY GRANT ITS STAFF THE AUTHORITY TO MAKE TECHNICAL, DE MINIMIS ADJUSTMENTS TO THE ADOPTED PLAN PRIOR TO ITS SUBMISSION TO THE SUPREME COURT.

(d) IF FOR ANY REASON THE COMMISSION DOES NOT APPROVE A FINAL PLAN FOR BOTH HOUSES OF THE GENERAL ASSEMBLY BY THE DATE REQUIRED, THEN THE COMMISSION SHALL SUBMIT THE

PRELIMINARY PLAN AS THE COMMISSION'S FINAL PLAN. IF THE COMMISSION APPROVES DISTRICTS FOR ONE HOUSE OF THE GENERAL ASSEMBLY BUT NOT THE OTHER HOUSE, THEN THE PLAN FOR THE APPROVED HOUSE SHALL BE SUBMITTED AS THE FINAL PLAN FOR THAT HOUSE, AND THE PRELIMINARY PLAN SHALL BE SUBMITTED AS THE FINAL PLAN FOR THE HOUSE FOR WHICH THE COMMISSION DID NOT APPROVE DISTRICTS.

(7) (a) THE SUPREME COURT SHALL REVIEW THE SUBMITTED PLAN AND DETERMINE WHETHER THE PLAN COMPLIES WITH SECTIONS 46 (2) AND 47 OF THIS ARTICLE V. THE COURT'S 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. THE SUPREME COURT SHALL EITHER APPROVE THE PLAN OR RETURN THE PLAN TO THE COMMISSION WITH THE COURT'S REASONS FOR DISAPPROVAL UNDER SECTIONS 46 (2) AND 47 OF THIS ARTICLE V.

(b) IF THE PLAN IS RETURNED, THE COURT SHALL SPECIFY A DATE BY WHICH THE COMMISSION MUST SUBMIT A REVISED PLAN TO THE COURT. NO LATER THAN SUCH DATE, THE COMMISSION SHALL SUBMIT A REVISED PLAN TO THE COURT THAT CONFORMS TO THE COURT'S REQUIREMENTS. IF THE COMMISSION FAILS TO SUBMIT A REVISED PLAN TO THE COURT BY THE DATE REQUIRED, THE COMMISSION'S STAFF SHALL, WITHIN TWO BUSINESS DAYS THEREAFTER, SUBMIT A REVISED PLAN TO THE COURT THAT CONFORMS TO THE COURT'S REQUIREMENTS.

(c) THE SUPREME COURT SHALL APPROVE A PLAN FOR THE REDRAWING OF SENATORIAL AND REPRESENTATIVE DISTRICTS BY A DATE THAT WILL ALLOW SUFFICIENT TIME FOR SUCH PLAN TO BE FILED WITH THE SECRETARY OF STATE NO LATER THAN SIXTY-EIGHT 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.

Ballot Title Setting Board

Proposed Initiative 2017-2018 #68¹

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

An amendment to the Colorado constitution concerning state legislative redistricting, and, in connection therewith, renaming the commission that redraws state legislative boundaries; changing the qualifications and methods of appointment of members of the commission; providing for the appointment of 12 commissioners, 4 of whom are registered with the state's largest political party, 4 of whom are registered with the state's second largest political party, and 4 of whom are not registered with either of the state's 2 largest political parties; requiring the commission to consider political competitiveness, to the extent possible, after meeting other requirements for redistricting; prohibiting drawing redistricting plans to purposefully advantage or disadvantage any political party or person; specifying procedures that the commission must follow, including requiring the commission's work to be done in public meetings and requiring the commission's nonpartisan staff to prepare and present redistricting plans; and requiring the agreement of at least 8 of 12 commissioners to approve any action of the commission, and additionally requiring the affirmative vote of at least 2 commissioners not affiliated with either of the state's 2 largest parties to approve or adopt a redistricting plan.

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 state legislative redistricting, and, in connection therewith, renaming the commission that redraws state legislative boundaries; changing the qualifications and methods of appointment of members of the commission; providing for the appointment of 12 commissioners, 4 of whom are registered with the state's largest political party, 4 of whom are registered with the state's second largest political party, and 4 of whom are not registered with either of the state's 2 largest political parties; requiring the commission to consider political competitiveness, to the extent possible, after meeting other requirements for redistricting; prohibiting drawing redistricting plans to purposefully advantage or disadvantage any political party or person; specifying procedures that the commission must follow, including requiring the commission's work to be done in public meetings and requiring the

¹ Unofficially captioned “State Legislative Redistricting” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

commission's nonpartisan staff to prepare and present redistricting plans; and requiring the agreement of at least 8 of 12 commissioners to approve any action of the commission, and additionally requiring the affirmative vote of at least 2 commissioners not affiliated with either of the state's 2 largest parties to approve or adopt a redistricting plan?

Hearing November 15, 2017:

Single subject approved; staff draft amended; titles set. The Board determined that this proposed initiative does more than repeal a constitutional provision and therefore a 55% vote is required for approval of the amendment.

Hearing adjourned 11:44 p.m.

BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

Robert David DuRay and Katina Banks, Objectors

RECEIVED 11:47 A.M.
NOV 22 2017 S.WARD

vs.

Bill Hobbs and Kathleen Curry, Proponents.

Colorado Secretary of State

MOTION FOR REHEARING ON INITIATIVE 2017-2018 #68

Robert DuRay and Katina Banks, registered electors of the State of Colorado, through legal counsel, Recht Kornfeld P.C., object to the Title Board's title and ballot title and submission clause set for Initiative 2017-18 #68 relating to state legislative reapportionment.

The Title Board set a title for #68 on November 15, 2017. 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 state legislative redistricting, and, in connection therewith, renaming the commission that redraws state legislative boundaries; changing the qualifications and methods of appointment of members of the commission; providing for the appointment of 12 commissioners, 4 of whom are registered with the state's largest political party, 4 of whom are registered with the state's second largest political party, and 4 of whom are not registered with either of the state's 2 largest political parties; requiring the commission to consider political competitiveness, to the extent possible, after meeting other requirements for redistricting; prohibiting drawing redistricting plans to purposefully advantage or disadvantage any political party or person; specifying procedures that the commission must follow, including requiring the commission's work to be done in public meetings and requiring the commission's nonpartisan staff to prepare and present redistricting plans; and requiring the agreement of at least 8 of 12 commissioners to approve any action of the commission, and additionally requiring the affirmative vote of at least 2 commissioners not affiliated with either of the state's 2 largest parties to approve or adopt a redistricting plan?

INITIATIVE #68 VIOLATES THE SINGLE SUBJECT REQUIREMENT

A. Initiative #68 converts appellate review to a de novo trial on the merits before the Supreme Court.

Initiative #68 mandates that the Supreme Court abandon its historic role as an appellate court, authorizing the parties' "production and presentation of supportive evidence" for the plan presented. In describing the Supreme Court's consideration of the Commission's plan, Initiative #68 states:

The Supreme Court shall review the submitted plan and determine whether the plan complies with sections 46(2) and 47 of this article V. The court's 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. The supreme court shall either approve the plan or return the plan to the commission with the court's reasons for disapproval under sections 46(2) and 47 of this article V.

Proposed Art. V, § 48.5(7)(a) (emphasis added). Thus, parties will now be able to produce and present "any" new evidence to sustain the maps presented.

This change in the Supreme Court's role – to base its decision on non-record evidence – runs contrary to the very essence of an appellate court. "Evidence which was not presented to the trial court will not be considered on review." *In re Petition of Edison*, 637 P.2d 362, 363 (Colo. 1981). Providing evidence to the Supreme Court for it to weigh, evaluate, and use for the first time in the proceeding is a radical departure from the fundamental task of an appeal.

Introducing new evidence is not even permitted in original proceedings before the Supreme Court pursuant to Colorado Appellate Rule 21. Where a party invokes the Court's jurisdiction and then supplements its trial court record with new documents for the Court's review, the Supreme Court will reject those additional materials and resort only to the record developed below.

We find this procedure unacceptable. This is another case where a party fails to comply with well established procedures in the trial court and requests, if not expects, this court to act as the fact finder to whom relevant and important evidence is presented for the first time. We decline to consider the additional evidence.... Simply stated, we will not consider issues and evidence presented for the first time in original proceedings.

Panos Inv. Co. v. District Court of Cty. of Larimer, 662 P.2d 180, 182 (Colo. 1983).

There is a strong and well-understood reason for restricting the role of an appellate court to its historic role: the “orderly administration of justice.” *Id.* Even the parties’ use of additional affidavits before the Supreme Court does not meet this fundamental element of acceptable appellate practice that is necessary to foster an orderly justice system. *Bond v. District Court*, 682 P.2d 33, 39 n.2 (Colo. 1984). There are important reasons for prohibiting new evidence on appeal, including the fact that such new evidence is “not subject to cross-examination.” *Cf. City & County of Broomfield v. Farmers Reservoir & Irrigation Co.*, 235 P.3d 296, 297 (Colo. 2010) (“tables and calculations [that] were not introduced at trial” constituted “new evidence” and were properly excluded from appellate review).

Any change to the long-standing, well-accepted role of the Supreme Court as an appellate body is a change that would surely surprise voters. The Court’s historic role in assessing a commission’s legislative reapportionment plan is firmly established. “Our role in this proceeding is a narrow one: we measure the Adopted Plan against the constitutional standards, according to the hierarchy of federal and state criteria we have previously identified.... Our review must be swift and limited in scope so that elections may proceed on schedule.” *In re Reapportionment of the Colo. Gen. Assembly*, 332 P.3d 108, 110 (Colo. 2011) (emphasis added) (citations omitted).

Even more to the point, Initiative #68 gives the Court a new, substantive role in evaluating evidence and applying it for the purpose of justifying the House and Senate maps’ district lines. The proponents ignore the fact this role has always been one for the Commission and the Commission alone. “We do not redraw the apportionment map for the Commission.” *Id.* Neither has the Court, based on evidence the Commission never saw, been asked to conjure up reasons, based on that new evidence, to justify the districts drawn.

When an initiative’s proponents change an operating and fundamental tenet underlying a second governmental body in order to advance a redistricting measure, their proposal violates the single subject requirement in the Colorado Constitution. *In re Title, Ballot Title & Submission Clause for Initiative 2015-2016 #132*, 2016 CO 55 ¶¶24-25 (Colo. 2016) citing *In re Title, Ballot Title & Submission Clause, & Summary for 1997-1998 #64*, 960 P.2d 1192, 1196 (Colo. 1998) (altering the powers of a separate commission furthered a distinct purpose). Therefore, this measure should be returned to its proponents to comply with the single subject requirement.

B. Initiative #68 violates the single subject requirement because it seeks to make race (as well as language group identification) key bases both for setting district lines and, by extension, for the representation of constituents.

In addition to establishing a redistricting commission, this initiative radically alters the basis for legislative representation and provides that districts may be drawn based on “racial” or “language group” communities of interest. The measure authorizes the commission to consider factors including:

Consistent with the provisions of this section and section 16 SECTION 46 (2) of this article V, communities of interest, including RACIAL, ethnic, LANGUAGE GROUP, cultural, economic, trade area, geographic, and demographic factors, shall be preserved within a single district wherever possible.

Proposed Art. V, sec. 47(3).

This change is a dramatic departure from existing Colorado law. In 2011, when presented with a map that aligned Hispanics in southern (Pueblo and San Luis Valley) and north-central Colorado (Morgan and Weld Counties), the district court refused to link towns and counties based on the race of many of their inhabitants. “[T]he court found that race was the predominant consideration in the drawing of the... maps, creating a significant concern as to the constitutionality of the maps.” *Hall v. Moreno*, 2012 CO 14 ¶25, citing *Hunt v. Cromartie*, 526 U.S. 541, 546 (1999) (“[A]ll laws that classify citizens on the basis of race, including racially gerrymandered districting schemes, are constitutionally suspect and must be strictly scrutinized”).

Thus, to create a construct whereby legislative districts could be drawn as a matter of racial communities of interest represents a substantive departure from what voters have experienced – the drawing of districts to reflect “the foundational goal of congressional redistricting under the United States Constitution: ‘fair and effective representation for all citizens.’” *Hall, supra*, at ¶43, citing *Reynolds v. Sims*, 377 U.S. 533, 565 (1964). All non-constitutional criteria for redistricting, including the preservation of communities of interest, “must be interpreted in light of this overarching goal.” *Hall, supra*.

A focus on race (or “language group”) communities of interest is contrary to the underpinnings of fair and effective representation. “The recognition of nonracial communities of interest reflects the principle that a State may not ‘assum[e] from a group of voters’ race that they think alike, share the same political interests, and will prefer the same candidates at the polls.’” *League of United Latin American Citizens v. Perry*, 548 U.S. 399, 433 (2006) (citations omitted). Thus, racial communities of interest are not used precisely because such communities of interest would assume that race is a way of grouping citizens with common policy concerns. That presumption is so overbroad as to be useless if not counterproductive.

The threats posed by Proponents’ approach include not just the undermining of fair and effective representation. Race-based districting, if successful, is the ultimate “us vs. them” construct for legislative representation, fixing white districts and Hispanic districts and African-American districts and so on. “Racial gerrymandering, even for remedial purposes, may balkanize us into competing racial factions; it threatens to carry us further from the goal of a political system in which race no longer matters – a goal that the Fourteenth and Fifteenth Amendments embody, and to which the Nation continues to aspire.” *Shaw v. Reno*, 509 U.S. 630, 657 (1993).

As a result, it cannot be said that adding “race” and “language group” communities of interest is simply another redistricting procedure. It is a substantive and even fundamental change in the law. And when a measure, such as this one, masks such substantive change as a procedural one, it violates the single subject requirement. In *In re Title, Ballot Title & Submission Clause for Proposed Initiative 2001-2002 #43*, 46 P.3d 438 (Colo. 2002), a proposed ballot measure that changed certain initiative-related procedures also expressly changed two state constitutional rights: protection against multi-subject ballot measures and excluding zoning matters that affect private property rights from the right of referendum. *Id.* at 445-46, 448.

In finding a single subject violation, the Court noted the voter surprise that would result from voters who considered a reform measure who only later found that they had also sacrificed fundamental constitutional protections. “It is ironic that in approving a seemingly innocuous

initiative proposing to relax the procedural requirements for placing a measure on the ballot, voters may inadvertently nullify their only protection against the dangers of including incongruous measures in a single initiative.” *Id.* at 446. In so concluding, the Court relied on the Board’s observations below:

The general assembly gave us a list, “To avoid surprise and fraud, avoid surreptitious measures being buried within broader measures.” This just strikes me as something that is buried I just don’t think that normally that a measure that deals with petitioners’ rights, one would normally think that that would include reversing the single-subject rule.

Id. (citing comments of chairman of the Title Board, William Hobbs).

Both concerns apply here. First, the consideration of a measure establishing a new redistricting commission, with elaborate selection processes, procedures for map-drawing and approval, and public input requirements, masks the fact that a new form of race-based districting would be authorized in Colorado. These concerns have no necessary connection with one another and could easily be advanced by separate ballot measures. *See* C.R.S. 1-40-106.5(1)(e)(I). Second, the fact that they are combined would be a surprise to voters. *See* C.R.S. 1-40-106.5(1)(e)(II). Voters would focus, at Proponents’ urging, about the supposedly independent commission rather than the fact that their districts could now be drawn in a way that would undermine the understood goal of fair and effective representation for all Coloradans. This provision thus violates both of the single subject concerns at the heart of the 1994 amendment imposing that requirement.

Further, this aspect is buried in a 15-page measure that is full of complex procedural provisions. It is easily overlooked as a matter of the sheer volume and political noise over a new mechanism for drawing districts. Proponents tout their inclusion of an already-accepted redistricting consideration – political competitiveness – as the major change to be enacted. In comparison, it is a minor one given that the Colorado courts have already sanctioned its use in both the congressional and legislative redistricting processes. *Hall, supra*, at ¶52; *In re Reapportionment of the Colo. Gen. Assembly*, 332 P.3d 108, 111 (Colo. 2011). As race-based communities of interest have never been the basis for district lines, voters would have no reason to think that this provision was included in this measure.

The Proponents endorse the Board’s summary of the single subject description as “state legislative redistricting.” However, the fact that provisions in a measure share a “common characteristic” is not enough to convert untethered amendments to a single subject. *In re Title, Ballot Title & Submission Clause and Summary for Proposed Initiative “Public Rights in Waters II,”* 898 P.2d 1076, 1080 (Colo. 2002).

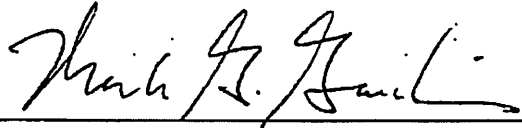
If Proponents want to make racial (or language group) interests a keystone of both the districting line-drawing process *and* the way in which legislative concerns are represented in the legislative branch through establishing new communities of interest that focus on such matters, they certainly may do so. But they must amend this aspect of our election and governing processes through an independent ballot measure rather than hide these changes in this initiative that purports, as its primary purpose, to change the procedural aspects of redistricting.

The Board should set no title for this measure and should instead return it to the Proponents so that they may cure this constitutional matter of the first order.

WHEREFORE, the titles set November 15, 2017 should be reversed, due to the single subject violations addressed herein.

RESPECTFULLY SUBMITTED this 22nd day of November, 2017.

RECHT KORNFELD, P.C.

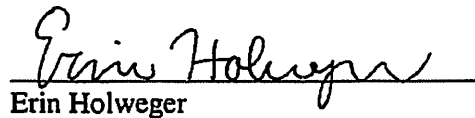


Mark Grueskin
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Phone: 303-573-1900
Email: mark@rklawpc.com

CERTIFICATE OF SERVICE

I hereby affirm that a true and accurate copy of the MOTION FOR REHEARING ON INITIATIVE 2017-2018 #68 was sent this day, November 22, 2017 via email and first class U.S. mail, postage pre-paid to the proponents' counsel at:

Benjamin Larson
Ireland Stapleton Pryor & Pascoe, PC
717 17th Street, Suite 2800
Denver, Colorado 80202
BLarson@irelandstapleton.com



Erin Holweger

Ballot Title Setting Board

Proposed Initiative 2017-2018 #68¹

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

An amendment to the Colorado constitution concerning state legislative redistricting, and, in connection therewith, renaming the commission that redraws state legislative boundaries; changing the qualifications and methods of appointment of members of the commission; providing for the appointment of 12 commissioners, 4 of whom are registered with the state's largest political party, 4 of whom are registered with the state's second largest political party, and 4 of whom are not registered with either of the state's 2 largest political parties; requiring the commission to consider political competitiveness, to the extent possible, after meeting other requirements for redistricting; prohibiting drawing redistricting plans to purposefully advantage or disadvantage any political party or person; specifying procedures that the commission must follow, including requiring the commission's work to be done in public meetings and requiring the commission's nonpartisan staff to prepare and present redistricting plans; and requiring the agreement of at least 8 of 12 commissioners to approve any action of the commission, and additionally requiring the affirmative vote of at least 2 commissioners not affiliated with either of the state's 2 largest parties to approve or adopt a redistricting plan.

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 state legislative redistricting, and, in connection therewith, renaming the commission that redraws state legislative boundaries; changing the qualifications and methods of appointment of members of the commission; providing for the appointment of 12 commissioners, 4 of whom are registered with the state's largest political party, 4 of whom are registered with the state's second largest political party, and 4 of whom are not registered with either of the state's 2 largest political parties; requiring the commission to consider political competitiveness, to the extent possible, after meeting other requirements for redistricting; prohibiting drawing redistricting plans to purposefully advantage or disadvantage any political party or person; specifying procedures that the commission must follow, including requiring the commission's work to be done in public meetings and requiring the

¹ Unofficially captioned "State Legislative Redistricting" by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

commission's nonpartisan staff to prepare and present redistricting plans; and requiring the agreement of at least 8 of 12 commissioners to approve any action of the commission, and additionally requiring the affirmative vote of at least 2 commissioners not affiliated with either of the state's 2 largest parties to approve or adopt a redistricting plan?

Hearing November 15, 2017:

Single subject approved; staff draft amended; titles set. The Board determined that this proposed initiative does more than repeal a constitutional provision and therefore a 55% vote is required for approval of the amendment.

Hearing adjourned 11:44 p.m.

Rehearing December 6, 2017:

Motion for Rehearing denied.

Hearing adjourned 12:15 p.m.



**Colorado
Legislative
Council
Staff**

Initiative # 68

**INITIAL FISCAL
IMPACT STATEMENT**

Date: November 15, 2017

Fiscal Analyst: Chris Creighton (303-866-5834)
Ryan Long (303-866-2066)

LCS TITLE: STATE LEGISLATIVE REDISTRICTING

Fiscal Impact Summary	FY 2018-2019	FY 2020-2021	FY 2021-2022
State Revenue			
State Expenditures	<u>\$0</u>	<u>\$169,895</u>	<u>\$161,785</u>
General Fund	0	169,895	161,785

Note: This *initial* fiscal impact estimate has been prepared for the Title Board. If the initiative is placed on the ballot, Legislative Council Staff may revise this estimate for the Blue Book Voter Guide if new information becomes available.

Summary of Measure

Every 10 years following the U.S. Census, the Colorado Reapportionment Commission must create and approve a legislative district plan for the Colorado House of Representatives and Colorado State Senate. This initiative replaces the 11-member Colorado Reapportionment Commission with the 12-member Independent Legislative Redistricting Commission (Commission). The new Commission is responsible for approving a state legislative redistricting plan using draft plans prepared by nonpartisan legislative staff.

Commission membership selection. The Commission consists of 12 members, of which 4 members must be registered with the state's largest political party, 4 members must be registered with the state's second largest political party, and 4 members must be unaffiliated or registered with a party other than the state's two largest parties (independent members). Commission members must be Colorado registered voters and cannot be a member or candidate for the General Assembly. At least one member must reside in each state congressional district and no more than three members may reside in the same congressional district.

Large political party member selection. The Secretary of State (SOS) must establish an application process for all commission candidates, and appointments to the Commission must be made from the pool of applicants that apply. The majority and minority leaders in the state Senate and House of Representatives alternate choosing candidates and alternates affiliated with the state's two largest parties, starting with the Senate leaders. This process must begin by March 18 in the year following the U.S Census, and will next occur in 2021.

Independent commission member selection. The SOS must review applications and issue an eligibility finding for all independent applicants by April 1. The SOS is required to form a panel of retired justices or judges to select twenty eligible independent member applicants through one or more public hearings. The four independent members and four alternates are randomly selected by the SOS from the pool of twenty applicants chosen by the panel. This must occur by April 30th.

Commission requirements. The Commission must adopt rules regarding the maintenance of records, the process for removing commissioners, filling a vacancy, and the process for recommending redistricting plan changes to staff, and must approve a statewide meeting and hearing schedule. Any motion by the Commission requires eight votes, including one vote from an independent commissioner. The Commission is authorized to retain legal counsel and is subject to the Colorado Open Records Act. The Commission will be staffed by the nonpartisan research and legal staff of the General Assembly and funding to cover the costs of the Commission and its staff must be provided by the General Assembly.

Commission plan review and approval. The commission must be convened by the Governor no later than May 15th in the redistricting year. Prior to the commission considering a preliminary plan, nonpartisan staff must prepare and present at least four state legislative district plans. These plans must be published online and presented to the Commission. The Commission must allow for public comment on all plans through email or other electronic communication. After allowing for public comment, the Commission must select a preliminary plan and must hold public hearings on the preliminary plan after posting it online. The approval of a preliminary plan and adoption of a final plan must have the support of at least two independent commissioners. At least three public hearings are required in each congressional district. Some of these hearings may be held through video conferencing. However, at least one in-person hearing is required in each district. In addition, two in-person hearings are required west of the Continental Divide and two in-person hearings are required south of El Paso County and east of the Continental Divide.

After the public hearings the Commission is required to finalize a plan and submit it to the Colorado Supreme Court for review. The Supreme Court can approve or return the plan to the Commission with instructions for submitting a revised plan. The next state legislative district plan must be approved and filed with the SOS no later than December 31, 2021.

State Expenditures

Based on preliminary costs for state legislative redistricting under current law, **this initiative is projected to increase state General Fund expenditures by \$169,895 and 0.2 FTE in FY 2020-21 and \$161,785 and 1.2 FTE in FY 2021-22.** These costs are summarized in Table 1 and discussed below.

Cost Components	FY 2018-19	FY 2020-21	FY 2021-22
Personal Services	-	\$11,879	\$101,181
FTE	-	0.2 FTE	1.2 FTE
Operating Expenses & Capital Outlay	-	3,664	475
Computer Equipment and Software	-	126,600	6,170
Travel and Per Diem	-	9,727	29,180
Senior Judge Application Panel	-	15,876	0
Benefits and Leased Space	-	2,149	24,779
TOTAL	-	\$169,895	\$161,785

Personal services and operating costs. Under the current legislative redistricting process, legislative district plans are drawn by the Reapportionment Commission in the interim (between legislative sessions). Staff support for this commission is provided by nonpartisan legislative staff. The current process is projected to last seven months and require 4.6 FTE (1.3 FTE in FY 2020-21; 3.3 in FY 2021-22). Under this initiative, the new Independent Legislative Redistricting Commission will require a total of 6.0 FTE for eight months, 1.5 FTE in FY 2020-21 and 4.5 FTE in FY 2021-22. Overall, state redistricting costs are increased due to the increased length of the process and need for more staff to complete the process outlined in the initiative. There will be a net increase of 0.2 FTE in FY 2020-21 and 1.2 FTE in FY 2021-22. Costs for these staff and related operating expenses are shown in Table 1.

Travel and per diem. Under current law, several meetings and public hearings are held as a part of the redistricting process to seek public input on new district plans. These meetings are held throughout the state and funds are needed to pay for travel expense reimbursements and per diem for staff and commission members. Under this initiative, costs will increase for additional staff and the twelfth commissioner to travel and to hold additional public hearings.

Computer equipment and software. GIS and mapping software, and printing services are needed to prepare the state redistricting plans. Computer equipment costs are expected to increase \$126,600 in FY 2020-21 for hardware and GIS and other mapping software and \$6,170 in FY 2021-22 for the printing of redistricting maps for public meetings compared to current reapportionment costs.

Secretary of State. Under this initiative, the Secretary of State is required to form and pay for the expenses of a panel of three senior judges to review the independent commissioner applications. This will increase costs to the Secretary of State in FY 2020-21 by \$15,876. This includes salary and travel expenses for each of the three judges. It is assumed that these costs will be paid with existing revenue to and appropriations from the Secretary of State Cash Fund.

Additionally, workload will increase for the SOS to hold a public meeting to randomly select the four independent commissioners and four alternates. This workload is expected to be minimal and will not require an increase in appropriations.

Employee benefits and leased space. Employee benefits and leased space for staff are estimated increase by \$2,149 in FY 2020-21 and \$24,779 in FY 2021-22. This includes health, life, and dental insurance and eight months of leased space for redistricting staff.

Effective Date

If approved by voters, the ballot initiative takes effect upon proclamation of the Governor within 30 days of the official canvas of votes at the 2018 general election.

State and Local Government Contacts

Clerks
Judicial Department

Legislative Council
Secretary of State

Abstract of Initiative 68: State Legislative Redistricting

This initial fiscal estimate, prepared by the nonpartisan Director of Research of the Legislative Council as of November 2017, identifies the following impacts:

The abstract includes estimates of the fiscal impact of the initiative. If this initiative is to be placed on the ballot, Legislative Council Staff will prepare new estimates as part of a fiscal impact statement, which includes an abstract of that information. All fiscal impact statements are available at www.ColoradoBlueBook.com and the abstract will be included in the ballot information booklet that is prepared for the initiative.

State expenditures. Under the current legislative redistricting process, legislative district plans for the Colorado House of Representatives and Colorado Senate are drawn by the Reapportionment Commission following the decennial census. Initiative 68 replaces the Reapportionment Commission with the newly created Independent Legislative Redistricting Commission. Overall, Initiative 68 increases state expenditures by \$169,895 in FY 2020-21 and \$161,785 in FY 2021-22.