

2017-2018 #50 – Original Draft

Proposed statutory initiative concerning Congressional Redistricting Reform

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Colorado Secretary of State

S. WARO 9:18 A.M.

Text of Measure:

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

SECTION 1. In Colorado Revised Statutes, **recreate and reenact, with amendments,** 2-1-101 as follows:

2-1-101. Fair congressional districts for fair elections – legislative declaration. (1) THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT, IN ORDER TO ENSURE FAIR CONGRESSIONAL REPRESENTATION, THE PRACTICE OF POLITICAL GERRYMANDERING, WHEREBY CONGRESSIONAL DISTRICTS ARE PURPOSEFULLY DRAWN TO FAVOR ONE POLITICAL PARTY OR INCUMBENT POLITICIAN OVER ANOTHER, OR TO ACCOMPLISH POLITICAL GOALS, MUST END.

(2) 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 CONGRESSIONAL DISTRICTS WITHOUT REGARD TO PARTISAN PRESSURES OR CONSIDERATIONS.

(3) 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.

(4) THE PEOPLE FURTHER FIND AND DECLARE THAT PUBLIC PARTICIPATION IN THE REDISTRICTING PROCESS IS A PRIORITY AND THAT THE INDEPENDENT CONGRESSIONAL

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.

SECTION 2. In Colorado Revised Statutes, 2-1-102, **amend** (1); and **add** (2) with amended and relocated provisions, as follows:

2-1-102. Fair criteria for determinations of congressional districts. (1) In ~~determining whether one or more of the~~ ESTABLISHING congressional districts ~~established in accordance with section 44 of article V of the state constitution are lawful and in adopting or enforcing any change to any such district, courts~~ THE INDEPENDENT CONGRESSIONAL REDISTRICTING COMMISSION AND ITS STAFF SHALL:

(a) ~~Shall utilize the following factors:~~(I) MAKE a good faith effort to achieve precise mathematical population equality between districts, justifying each variance, no matter how small, as required by the constitution of the United States. Each district shall consist of contiguous whole general election precincts. Districts shall not overlap.

(II) ~~COMPLY~~ COMPLY with the federal "Voting Rights Act of 1965", in particular ~~42 U.S.C. sec. 197352~~ U.S.C. sec. 10101; and

(III) NOT PREPARE ANY CONGRESSIONAL REDISTRICTING PLAN TO PURPOSEFULLY ADVANTAGE OR DISADVANTAGE ANY POLITICAL PARTY OR PERSON;

(b) ~~May, without weight to any factor, utilize~~CONSIDER THE FOLLOWING factors, WITHOUT WEIGHT TO ANY FACTOR ~~including but not limited to:~~

(I) The preservation of political subdivisions such as counties, cities, and towns. When county, city, or town boundaries are changed, adjustments, if any, in districts shall be as prescribed by law.

(II) The preservation of communities of interest, including RACIAL, ethnic, LANGUAGE GROUP, cultural, economic, trade area, geographic, and demographic factors; AND

(III) The compactness of each congressional district; and

(IV) ~~The minimization of disruption of prior district lines;~~

(c) AFTER ADHERING TO THE PROVISIONS OF SUBSECTION (1)(a) OF THIS SECTION AND AFTER CONSIDERING THE FACTORS LISTED IN SUBSECTION (1)(b) OF THIS SECTION, MAXIMIZE THE NUMBER OF POLITICALLY COMPETITIVE CONGRESSIONAL DISTRICTS.

(2) [Formerly 2-1-100.5] ~~The general assembly hereby finds and declares that~~ The state of Colorado shall be divided into districts pursuant to the official figures of the most recent decennial census of the United States. ~~The general assembly further finds and declares that~~ Such figures are the most reliable data that the state has available, and ~~that~~ the use of any other data or of any data adjustments may create a serious risk of inaccuracy and injustice in establishing congressional districts to represent the citizens of Colorado.

SECTION 3. In Colorado Revised Statutes, add 2-1-103, 2-1-104, 2-1-105, and 2-1-106 as follows:

2-1-103. Congressional districts – independent congressional redistricting commission - appointment. (1) THE RESPONSIBILITY OF THE GENERAL ASSEMBLY TO DIVIDE THE STATE INTO CONGRESSIONAL DISTRICTS ESTABLISHED IN ARTICLE V, SECTION 44 OF THE COLORADO CONSTITUTION SHALL BE CARRIED OUT BY AN INDEPENDENT COMMISSION TO BE KNOWN AS THE INDEPENDENT CONGRESSIONAL REDISTRICTING COMMISSION, WHICH IS HEREBY CREATED AND REFERRED TO IN THIS ARTICLE 1 AS THE “COMMISSION”.

(2) AFTER EACH FEDERAL CENSUS OF THE UNITED STATES, THE MEMBERS OF THE COMMISSION SHALL BE APPOINTED AND CONVENED AS PRESCRIBED IN THIS ARTICLE 1 TO DIVIDE THE STATE INTO AS MANY CONGRESSIONAL DISTRICTS AS THERE ARE REPRESENTATIVES IN CONGRESS APPORTIONED TO THIS STATE BY THE CONGRESS OF THE UNITED STATES FOR THE ELECTION OF ONE REPRESENTATIVE TO CONGRESS FROM EACH DISTRICT.

(3) 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 APPOINTED BY THE CHAIRPERSON OF THAT PARTY, OR BY THE LEADERSHIP OF THAT PARTY IN SUCH MANNER AS THE PARTY MAY PROVIDE BY RULE.

(b) FOUR MEMBERS MUST BE REGISTERED WITH THE STATE'S SECOND LARGEST POLITICAL PARTY AND APPOINTED BY THE CHAIRPERSON OF THAT PARTY, OR BY THE LEADERSHIP OF THAT PARTY IN SUCH MANNER AS THE PARTY MAY PROVIDE BY RULE.

(c) 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 FOR AT LEAST THE TWO YEARS PRIOR TO THE MEMBER'S APPOINTMENT. SUCH MEMBERS ARE

REFERRED TO IN THIS ARTICLE 1 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.

(4) ALL COMMISSIONERS MUST BE REGISTERED ELECTORS OF THE STATE OF COLORADO. NO COMMISSIONER MAY BE AN INCUMBENT MEMBER OF CONGRESS OR A CANDIDATE FOR CONGRESS. NO COMMISSIONER MAY SERVE SIMULTANEOUSLY AS A MEMBER OF THE COLORADO REAPPORTIONMENT COMMISSION OR ANY SUCCESSOR BODY RESPONSIBLE FOR DIVIDING THE STATE INTO SENATORIAL AND REPRESENTATIVE DISTRICTS OF THE GENERAL ASSEMBLY.

(5) (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.

(6) THE TWO LARGEST POLITICAL PARTIES SHALL EACH SUBMIT THREE OF THEIR FOUR APPOINTMENTS TO THE SECRETARY OF STATE ACCORDING TO THE FOLLOWING SCHEDULE IN THE YEAR FOLLOWING THAT IN WHICH THE FEDERAL CENSUS IS TAKEN. IN THIS ARTICLE 1, SUCH YEAR IS REFERRED TO AS THE "REDISTRICTING YEAR". UNTIL EACH CONGRESSIONAL DISTRICT AND GEOGRAPHIC AREA IS REPRESENTED ON THE COMMISSION, NO APPOINTMENT SHALL BE MADE BY ANY APPOINTING AUTHORITY TO A DISTRICT OR GEOGRAPHIC AREA ALREADY REPRESENTED ON THE COMMISSION.

(a) BY MARCH 10, THE LARGEST POLITICAL PARTY SHALL SUBMIT ONE APPOINTMENT.

(b) AFTER THE APPOINTMENT PURSUANT TO SUBSECTION (6)(a) OF THIS SECTION AND BY MARCH 17, THE SECOND LARGEST POLITICAL PARTY SHALL SUBMIT TWO APPOINTMENTS. EACH PERSON APPOINTED MUST RESIDE IN A DIFFERENT CONGRESSIONAL DISTRICT OR DIFFERENT GEOGRAPHIC AREA THAN THE OTHER PERSON APPOINTED AND THE PERSON PREVIOUSLY APPOINTED BY THE LARGEST POLITICAL PARTY.

(c) AFTER THE APPOINTMENTS PURSUANT TO SUBSECTION (6)(b) OF THIS SECTION AND BY MARCH 24, THE LARGEST POLITICAL PARTY SHALL SUBMIT TWO APPOINTMENTS. EACH PERSON APPOINTED MUST RESIDE IN A DIFFERENT CONGRESSIONAL DISTRICT OR DIFFERENT GEOGRAPHIC AREA THAN THE OTHER PERSON APPOINTED AND THE PERSONS PREVIOUSLY APPOINTED.

(d) AFTER THE APPOINTMENTS PURSUANT TO SUBSECTION (6)(c) OF THIS SECTION AND BY MARCH 31, THE SECOND LARGEST PARTY SHALL SUBMIT ONE APPOINTMENT. THE PERSON APPOINTED MUST RESIDE IN A DIFFERENT CONGRESSIONAL DISTRICT OR DIFFERENT GEOGRAPHIC AREA THAN THE PERSONS PREVIOUSLY APPOINTED.

(7)(a) THE FOUR INDEPENDENT MEMBERS OF THE COMMISSION SHALL BE SELECTED AS PROVIDED IN THIS SUBSECTION (7).

(b) 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 INDEPENDENT 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.

(c) APPLICATIONS MUST BE SUBMITTED NO LATER THAN MARCH 20 OF THE REDISTRICTING YEAR. WITHIN THREE BUSINESS DAYS THEREAFTER, THE SECRETARY OF STATE SHALL POST ALL APPLICATIONS ON THE SECRETARY'S WEBSITE. NO LATER THAN APRIL 1, THE SECRETARY SHALL EXAMINE EACH APPLICATION, ISSUE AN ELIGIBILITY FINDING WHETHER THE APPLICANT MEETS THE QUALIFICATION SPECIFIED IN SUBSECTIONS (3)(c) AND (4) OF THIS SECTION, POST THE FINDING ON THE SECRETARY'S WEBSITE, AND NOTIFY THE APPLICANT BY ELECTRONIC MAIL OF THE SECRETARY'S FINDING. IF THE SECRETARY FINDS THAT AN APPLICANT IS NOT ELIGIBLE, THEN THE SECRETARY SHALL INCLUDE THE REASONS THEREFOR IN HIS OR HER FINDING. IF THE SECRETARY 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'S ELECTRONIC MAIL NOTIFICATION, WHICH STATEMENT SHALL BE POSTED PROMPTLY WITH THE SECRETARY'S FINDING. IF AN APPLICANT SUBMITS A STATEMENT DISPUTING THE SECRETARY'S FINDING OF INELIGIBILITY, THE APPLICANT MAY BE CONSIDERED BY THE PANEL IN

ACCORDANCE WITH SUBSECTION (7)(f) OF THIS SECTION IF THE PANEL DETERMINES THAT THE APPLICANT IS ELIGIBLE.

(d) NO LATER THAN MARCH 20 OF THE REDISTRICTING YEAR, THE SECRETARY OF STATE SHALL APPOINT A PANEL TO REVIEW THE APPLICATIONS. THE PANEL SHALL 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)(d).

(e) 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 SHALL NOT AFFECT A MEMBER'S SERVICE RETIREMENT BENEFITS UNDER ARTICLE 51 OF TITLE 24.

(f) IN ONE OR MORE PUBLIC HEARINGS CONDUCTED IN ACCORDANCE WITH PROCEDURES DETERMINED BY THE PANEL, THE PANEL SHALL SELECT TWENTY ELIGIBLE APPLICANTS IT 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 (3)(c) AND (4) OF THIS SECTION ARE IN QUESTION. THE PANEL SHALL RECOMMEND THOSE APPLICANTS THAT IT FINDS TO BE THE MOST QUALIFIED TO PERFORM THE DUTIES OF THE COMMISSION, AND, TO THE EXTENT PRACTICAL, RECOMMEND APPLICANTS WHO REPRESENT COLORADO'S RACIAL, ETHNIC, AND GEOGRAPHIC DIVERSITY, TAKING INTO CONSIDERATION THE GEOGRAPHIC REPRESENTATION REQUIREMENTS OF SUBSECTION (5) OF THIS SECTION AND THE GEOGRAPHIC REPRESENTATION OF THE SIX COMMISSIONERS PREVIOUSLY APPOINTED BY THE TWO LARGEST POLITICAL PARTIES. TO THE EXTENT POSSIBLE, THE PANEL SHALL RECOMMEND AN ODD NUMBER OF APPLICANTS GREATER THAN TWO FROM EACH UNREPRESENTED CONGRESSIONAL DISTRICT AND EACH UNREPRESENTED GEOGRAPHIC AREA. MEMBERS OF THE PANEL SHALL HAVE NO EX PARTE COMMUNICATIONS REGARDING THE PERFORMANCE OF THEIR DUTIES UNDER THIS SUBSECTION (7)(f).

(g) 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, TO THE CHAIRPERSONS OF THE TWO LARGEST POLITICAL PARTIES, TO THE SIX COMMISSIONERS PREVIOUSLY APPOINTED BY THE TWO LARGEST POLITICAL PARTIES, AND TO THE SECRETARY OF STATE, WHO SHALL PROMPTLY POST THE PANEL'S RECOMMENDATIONS ON THE SECRETARY OF STATE'S WEBSITE.

(h) (I) NO LATER THAN APRIL 30 OF THE REDISTRICTING YEAR, THE SIX COMMISSIONERS PREVIOUSLY APPOINTED BY THE TWO LARGEST POLITICAL PARTIES SHALL, IN ONE OR MORE PUBLIC MEETINGS HELD AFTER NOTICE, SELECT THE COMMISSION'S FOUR INDEPENDENT MEMBERS FROM THE APPLICANTS RECOMMENDED BY THE PANEL IN ACCORDANCE WITH SUBSECTIONS (7)(h)(II) AND (7)(h)(III) OF THIS SECTION. THE NONPARTISAN RESEARCH STAFF OF THE GENERAL ASSEMBLY SHALL PROVIDE STAFF ASSISTANCE FOR THE MEETINGS.

(II) FOR EACH CONGRESSIONAL DISTRICT AND GEOGRAPHIC AREA NOT REPRESENTED ON THE COMMISSION BY ANY OF THE SIX COMMISSIONERS, THE COMMISSIONERS APPOINTED BY EACH POLITICAL PARTY SHALL, AS A GROUP, BEGINNING WITH THE COMMISSIONERS APPOINTED BY THE LARGEST POLITICAL PARTY, TAKE TURNS REMOVING ONE APPLICANT FROM THE LIST OF RECOMMENDED APPLICANTS WHO RESIDE IN THAT CONGRESSIONAL DISTRICT OR GEOGRAPHIC AREA UNTIL THERE IS ONLY ONE APPLICANT REMAINING, WHO SHALL BECOME A MEMBER OF THE COMMISSION.

(III) UPON COMPLETING THE SELECTION OF MEMBERS PURSUANT TO SUBSECTION (7)(h)(II) OF THIS SECTION, IF NECESSARY TO COMPLETE THE SELECTION OF FOUR INDEPENDENT MEMBERS, THE INDEPENDENT MEMBERS OF THE COMMISSION SHALL BE SELECTED AS FOLLOWS. THE COMMISSIONERS APPOINTED BY EACH POLITICAL PARTY SHALL, AS A GROUP, BEGINNING WITH THE COMMISSIONERS APPOINTED BY THE LARGEST POLITICAL PARTY, TAKE TURNS REMOVING ONE APPLICANT FROM THE REMAINING LIST OF RECOMMENDED APPLICANTS UNTIL THE TOTAL NUMBER OF APPLICANTS REMAINING PLUS THE NUMBER OF APPLICANTS SELECTED PURSUANT TO SUBSECTION (7)(h)(II) OF THIS SECTION TOTALS FOUR. THESE APPLICANTS SHALL BECOME THE INDEPENDENT MEMBERS OF THE COMMISSION.

(8) FOLLOWING THE SELECTION OF THE INDEPENDENT MEMBERS AS PROVIDED IN SUBSECTION (7) OF THIS SECTION, THE TWO LARGEST POLITICAL PARTIES SHALL EACH SUBMIT THEIR REMAINING APPOINTMENT TO THE SECRETARY OF STATE ACCORDING TO THE FOLLOWING SCHEDULE:

(a) BY MAY 3, THE LARGEST POLITICAL PARTY SHALL SUBMIT ITS APPOINTMENT. IF ANY CONGRESSIONAL DISTRICT OR GEOGRAPHIC AREA IS UNREPRESENTED ON THE COMMISSION AT THE TIME OF THE APPOINTMENT, THE PERSON APPOINTED MUST RESIDE IN AN UNREPRESENTED CONGRESSIONAL DISTRICT OR GEOGRAPHIC AREA.

(b) AFTER THE LARGEST POLITICAL PARTY SUBMITS ITS REMAINING APPOINTMENT AND BY MAY 5, THE SECOND LARGEST POLITICAL PARTY SHALL SUBMIT ITS APPOINTMENT. IF ANY CONGRESSIONAL DISTRICT OR GEOGRAPHIC AREA IS UNREPRESENTED ON THE COMMISSION AT THE TIME OF THE APPOINTMENT, THE PERSON APPOINTED MUST RESIDE IN AN UNREPRESENTED CONGRESSIONAL DISTRICT OR GEOGRAPHIC AREA.

(9) IF EITHER OF THE STATE'S TWO LARGEST POLITICAL PARTIES FAILS TO MAKE AN APPOINTMENT TO THE COMMISSION BY A DATE REQUIRED IN SUBSECTION (6) OR SUBSECTION (8) OF

THIS SECTION, THEN SUCH APPOINTMENT IS FORFEITED, AND THE NUMBER OF COMMISSIONERS COMPRISING THE COMMISSION IS REDUCED ACCORDINGLY. A REDUCTION IN THE NUMBER OF COMMISSIONERS COMPRISING THE COMMISSION DOES NOT AFFECT THE MINIMUM NUMBER OF AFFIRMATIVE VOTES OF COMMISSIONERS REQUIRED TO APPROVE A MOTION AS SPECIFIED IN SECTION 2-1-104 (9).

(10) 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.

2-1-104. 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 DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL AND THE DIRECTOR OF THE OFFICE OF LEGISLATIVE LEGAL SERVICES 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 DISTRICT COURT AND THE SUPREME COURT PURSUANT TO SECTION 2-1-105 (6) AND (7).

(4) THE GENERAL ASSEMBLY SHALL APPROPRIATE SUFFICIENT FUNDS FOR THE COMPENSATION AND PAYMENT OF THE EXPENSES OF THE COMMISSION AND ITS STAFF. 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 ARTICLE 1, OR PARTICIPATING IN COMMUNICATIONS PROHIBITED UNDER THIS ARTICLE 1;

(c) PROVIDING FOR ANY VACANCY CREATED BY THE DEATH, RESIGNATION, OR REMOVAL OF A COMMISSIONER, OR OTHERWISE, WHICH SHALL BE FILLED 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, C.R.S.

(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, C.R.S. 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 CONGRESSIONAL

DISTRICTS UNLESS THE COMMUNICATION IS DURING A PUBLIC MEETING OR HEARING OF THE COMMISSION.

(c) 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, C.R.S., ONCE A PLAN IS SUBMITTED TO THE SUPREME COURT.

(g) 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.

(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 2-1-102, OTHER THAN COMMISSION STAFF, IS A "PROFESSIONAL LOBBYIST" AS DEFINED IN SECTION 24-6-301(6), C.R.S., 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, C.R.S.

(9) ANY MOTION ADOPTED BY THE COMMISSION, INCLUDING THE ELECTION OF ITS OFFICERS AND THE AMENDMENT OR APPROVAL OF ANY PLAN, REQUIRES THE AFFIRMATIVE VOTE OF AT LEAST EIGHT COMMISSIONERS, INCLUDING THE AFFIRMATIVE VOTE OF AT LEAST ONE INDEPENDENT COMMISSIONER.

(10) THE COMMISSION SHALL NOT VOTE UPON A FINAL PLAN UNTIL AT LEAST 72 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.

2-1-105. Preparation, amendment, and approval of plans. (1) THE COMMISSION SHALL BEGIN BY CONSIDERING A PLAN CREATED BY ITS STAFF ALONE. WITHIN THIRTY DAYS AFTER THE COMMISSION HAS BEEN CONVENED, OR THE NECESSARY CENSUS DATA ARE AVAILABLE, WHICHEVER IS LATER, COMMISSION STAFF SHALL PUBLISH A PRELIMINARY REDISTRICTING PLAN.

(2) 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.

(3) THE COMMISSION SHALL ENSURE THE PUBLIC HAS ADEQUATE OPPORTUNITY TO COMMENT DURING THE MAP DEVELOPMENT PROCESS. AT A MINIMUM, THE COMMISSION SHALL AFFORD THE PUBLIC AN OPPORTUNITY TO COMMENT AFTER THE PUBLICATION OF EACH STAFF PLAN AND SHALL ENSURE THE PUBLIC HAS THE ABILITY TO COMMENT TO THE COMMISSION THROUGH ELECTRONIC MAIL OR OTHER ELECTRONIC MEANS THROUGHOUT THE REDISTRICTING PROCESS.

(4) SUBSEQUENT TO HEARINGS ON THE PRELIMINARY PLAN, THE NONPARTISAN STAFF SHALL PREPARE, PUBLISH ONLINE, AND PRESENT TO THE COMMISSION NO FEWER THAN THREE PLANS. THESE PLANS WILL BE KNOWN AS THE STAFF PLANS AND MUST BE NAMED AND NUMBERED SEQUENTIALLY FOR PURPOSES OF SUBSECTION (7) OF THIS SECTION. STAFF PLANS MUST BE PREPARED, PUBLISHED ONLINE, AND PRESENTED ON A TIMETABLE ESTABLISHED BY THE COMMISSION, EXCEPT EACH STAFF PLAN MUST 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 24 HOURS AFTER IT HAS BEEN PUBLISHED ONLINE. STAFF SHALL KEEP EACH PLAN PREPARED CONFIDENTIAL UNTIL IT IS PUBLISHED ONLINE. THE COMMISSION MAY, UPON MOTION ADOPTED IN ACCORDANCE WITH SECTION 2-1-104 (9), 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.

(5) ANY COMMISSIONER OR GROUP OF COMMISSIONERS MAY REQUEST THE COMMISSION'S 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 (7) OF THIS SECTION.

(6) (a) NO LATER THAN SEPTEMBER 15 OF THAT SAME YEAR, THE COMMISSION SHALL ADOPT A FINAL PLAN, WHICH SHALL THEN BE SUBMITTED TO THE COLORADO SUPREME COURT FOR ITS REVIEW AND DETERMINATION IN ACCORDANCE WITH SUBSECTION (8) 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.

(7) IF FOR ANY REASON THE COMMISSION DOES NOT ADOPT A FINAL PLAN BY THE DATE SPECIFIED IN SUBSECTION (6) OF THIS SECTION, THE NONPARTISAN STAFF SHALL SUBMIT THE THIRD STAFF PLAN TO THE DISTRICT COURT. THE COURT MAY MAKE CHANGES TO THE PLAN SUBMITTED, BUT ONLY IF THE CHANGES IMPROVE COMPLIANCE WITH THE CRITERIA SPECIFIED IN SECTION 2-1-102. THE COURT MAY APPOINT A SPECIAL MASTER TO ASSIST THE COURT. NO LATER THAN OCTOBER 31, THE COURT SHALL APPROVE A CONGRESSIONAL REDISTRICTING PLAN, INCLUDING ITS FINDINGS REGARDING COMPLIANCE WITH THE CRITERIA SPECIFIED IN SECTION 2-1-102. UPON APPROVAL, THE COURT SHALL SUBMIT ITS PLAN AND ITS FINDINGS TO THE COLORADO SUPREME COURT FOR REVIEW PURSUANT TO SUBSECTION (8) OF THIS SECTION.

(8) (a) THE SUPREME COURT SHALL REVIEW THE SUBMITTED PLAN AND DETERMINE WHETHER THE PLAN COMPLIES WITH SECTION 2-1-102. 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 SECTION 2-1-102.

(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 CONGRESSIONAL DISTRICTS NO LATER THAN NOVEMBER 15 IF THE COMMISSION SUBMITS A FINAL PLAN TO THE SUPREME COURT PURSUANT TO SUBSECTION (6) OF THIS SECTION, AND NO LATER THAN DECEMBER 30 IF THE DISTRICT COURT SUBMITS A PLAN TO THE SUPREME COURT PURSUANT TO SUBSECTION (7) OF THIS SECTION. THE COURT SHALL ORDER THAT SUCH PLAN BE FILED WITH THE SECRETARY OF STATE NO LATER THAN SUCH DATE.

2-1-106. Severability. IF ANY PROVISION OF THIS ARTICLE 1 OR THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, SUCH INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS ARTICLE 1 THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS ARTICLE 1 ARE DECLARED TO BE SEVERABLE.