



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number: LLS 18-1185 **Date:** April 20, 2018
Prime Sponsors: Sen. Grantham; Fenberg **Bill Status:** Senate SVMA
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Bill Topic: CONGRESSIONAL REDISTRICTING

- Summary of Fiscal Impact:**
- State Revenue
 - State Expenditure (*conditional*)
 - State Transfer
 - TABOR Refund
 - Local Government
 - Statutory Public Entity

This resolution establishes the Independent Congressional Redistricting Commission and requires the commission to create a congressional redistricting plan, thus removing this responsibility from the General Assembly. If approved by voters, this resolution increases state expenditures in FY 2020-21 and FY 2021-22.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced resolution.

Table 1
State Fiscal Impacts Under SCR 18-004

	FY 2018-19	FY 2020-21	FY 2021-22
Revenue		-	-
Expenditures			
General Fund		\$183,175	\$427,277
Cash Funds		\$88,822	-
Centrally Appropriated		\$12,979	\$72,108
Total		\$284,976	\$499,385
Total FTE		(0.3 FTE)	2.3 FTE
Transfers		-	-
TABOR Refund		-	-

Summary of Legislation

Each state is granted representatives in the U.S. Congress based on the state's share of the total U.S. population. Every ten years following the U.S. census, the state's congressional districts must be redrawn so that each district has equal population. Currently in Colorado, the General Assembly is responsible for dividing the state into seven congressional districts. This resolution refers a measure to the voters to amend the Colorado constitution to establish the Independent Congressional Redistricting Commission and requires the commission to create a congressional redistricting plan, thus removing this responsibility from the General Assembly.

Commissioner selection. The commission consists of 12 members: 4 members from the state's largest party; 4 members from the state's second largest party; and 4 members who are unaffiliated with a political party.

Application process. To qualify as a commissioner, applicants must be registered to vote and have voted in the previous two elections; must have been either unaffiliated with any party or affiliated with the same party for the last 5 consecutive years; and must meet certain criteria related to political participation, holding political office, or lobbying as outlined in the resolution. By August 10 in the year the census is conducted, after holding one or more public hearings, nonpartisan staff of the Colorado Legislative Council must prepare an application to allow the appointing authorities for the commission to evaluate applicant's experience. By November 10 of the year prior to redistricting, all persons interested in serving on the commission must submit an application to the nonpartisan staff.

Commissioner selection. By January 5 of the redistricting year, the Chief Justice of the Colorado Supreme Court must designate a three-member panel to review the submitted applications. This panel consists of the most recent retired justices or judges, and each appointee must have a different political affiliation. All decisions made by this panel must be unanimous. Compensation of panel members is to be set by the General Assembly.

Nonpartisan staff, with the assistance of the Secretary of State, must determine if each applicant is qualified and make such findings public by January 11. By January 18, the panel must hold a public meeting and randomly select up to 300 applicants for the first largest party, 300 applicants for the second largest party, and 450 unaffiliated applicants. From these applicants, the panel must choose 150 applicants, or 50 from each group, and randomly select 6 commissioners from these applicants. No more than two applicants can be from the same congressional district. By February 16, the Senate Majority and Minority Leader and House of Representatives Majority and Minority leader must select a pool of 10 applicants. By March 1, the panel must select 4 applicants from the pool of 10 and 2 unaffiliated applicants.

State plan review and approval. The Governor must convene the commission no later than March 15 of the redistricting year. Staff for the commission are appointed from the offices of the Legislative Council Staff and Legislative Legal Services. The commission must adopt rules governing the hearing process and review of submitted maps, maintenance of commission records, process for removing commissioners and for recommending changes to submitted maps, and must adopt a statewide meeting and hearing schedule.

Public involvement. All Colorado residents may present proposed redistricting maps and written comments for the commission's consideration. The commission must hold at least three public hearings in each congressional district before the approval of a redistricting map. At least 10 commissioners must attend each meeting either in person or electronically. These hearings

must be broadcast online. The commission must maintain a website through which Colorado residents may submit maps or written comments. All written comments pertaining to redistricting must be published on its website.

Lobbying requirements. Any person who receives compensation for advocating to the commission, one or more commissioners, or staff, are lobbyists and must disclose certain information to the Secretary of State within 72-hours of lobbying or receiving compensation for lobbying. The Secretary of State must publish the names and compensation of such lobbyists within 24-hours of receiving this information. Complaints against a lobbyist for failure to fully or accurately report such activity may be filed with the Department of State and referred to an Administrative Law Judge (ALJ). The decision of an ALJ may be appealed to the Court of Appeals.

Approval of plans. Within 30 to 45 days after the commission convenes, commission staff must create a preliminary plan. Any member of the public may submit written comments regarding the creation of the preliminary plan. The commissions must complete public hearings on the preliminary plan by July 7. Prior to the hearings being held, commission staff must create at least three staff plans to be presented to the commission. The commission may adopt a final plan at any time after the presentation of the first staff plan.

The commission must adopt a final plan and submit it to the Colorado Supreme Court for review by September 1. If the commission does not adopt a final plan by September 1, the commission staff must submit the unamended third staff plan. The Supreme Court must review the final plan and approve it by November 1 or return it to the commission. If returned, the commission has 12 days to hold a hearing and submit a revised plan to the Supreme Court. If the commission fails to submit a revised plan, nonpartisan staff has three days to submit a revised plan. The Supreme Court must approve a congressional redistricting plan by December 15 to be filed with the Secretary of State.

State Revenue

Beginning in FY 2018-19, this bill will minimally increase cash fund revenue to the Department of State in the Department of State cash fund for fines collected from lobbyists who fail to disclose required information. It is assumed that there will be high compliance with these requirements, and the actual issuance of fees will be low.

TABOR Refund

This bill increases state revenue from fines, which will increase the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount. State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

State Expenditures

Based on the estimated cost of congressional redistricting under current law, this resolution is expected to increase Legislative Department General Fund expenditures for congressional redistricting by \$192,947 in FY 2020-21 and \$499,385 in FY 2021-22. Department of State cash fund expenditures are expected to increase \$92,029 in FY 2021-22 only. These impacts are shown in Table 1 and described below.

Table 2
Expenditures Under SCR 18-005

Cost Components	FY 2018-19	FY 2020-21	FY 2021-22
Legislative Department			
Personal Services	-	(11,508)	\$271,139
Operating Expenses and Capital Outlay Costs	-	\$3,625	\$7,711
Computer Equipment, Software, and Website	-	\$100,139	\$26,548
Professional Services/Legal Services	-	\$51,756	\$129,390
Special Session	-	-	(\$125,000)
Travel and Per Diem	-	\$39,163	\$117,489
Centrally Appropriated Costs*	-	\$9,772	\$72,108
FTE – Personal Services	-	(0.5 FTE)	2.3 FTE
Dept (Subtotal)	-	\$192,947	\$499,385
Department of State	-		
Personal Services	-	\$17,142	-
Computer Programming	-	\$71,680	-
Centrally Appropriated Costs*	-	\$3,207	-
FTE – Personal Services	-	0.2 FTE	-
Dept (Subtotal)	-	\$92,029	-
Total	-	\$284,976	\$499,385
Total FTE	-	(0.3 FTE)	2.3 FTE

* Centrally appropriated costs are not included in the bill's appropriation.

Personal services. Under current law, congressional redistricting plans are prepared by the General Assembly with nonpartisan Legislative Department staff support during the legislative session (January to May). This requires 1.7 FTE in FY 2020-21. Under this resolution, congressional redistricting is expected to require 1.2 FTE in FY 2020-21 and 2.3 FTE in FY 2021-22. This will reduce staff time in FY 2020-21 only. Beginning in FY 2021-22, this resolution increases staff, and associated costs, due to the requirement for a website through which members of the public may submit maps and comments, the requirement to post comments on the website, and the requirement to broadcast all public hearings live through the commission's website.

The Department of State requires 0.2 FTE in FY 2020-21 only for approximately 310 hours of staff time to promulgate rules regarding congressional redistricting lobbying, create training materials and conduct training on lobbyist congressional redistricting registration and reporting requirements. Staff will also assist with updating the online lobbyist registration and filing system and process any complaints received against lobbyists. Workload will also increase in FY 2021-22 to process complaints; however, this workload can be accomplished within existing appropriations.

Computer equipment and software. For the Legislative Department, congressional redistricting requires computers that use GIS and mapping software, as well as data and printing services. This resolution also specifies certain requirements for the commission's website,

including allowing the submission of public maps and comments and the broadcasting of meetings that exceed the requirements of current law. These new requirements are expected to cost \$100,139 in FY 2020-21 and \$26,548 in FY 2021-22 more than current law.

For the Department of State, \$71,680 is needed in FY 2020-21 for 640 hours of computer programming at \$112 per hour to make modifications to the online lobbyist registration and filing system to allow for congressional redistricting lobbying registration and disclosures.

Professional and legal services. Professional and legal consultation may be sought during the drawing of congressional redistricting plans under this resolution. This includes legal support concerning rulemaking, open records requests, and for redistricting plans.

Special session. Under current law, it is assumed a special legislative session will be held in 2021 to pass the congressional redistricting plan prior to the start of the 2022 election cycle. A special session costs \$25,000 per day and five days are assumed. Under this resolution, the plan will be approved by the commission and no special session is required, resulting in a savings of \$125,000.

Travel and per diem. Under current law, it is assumed that an interim committee will hold public meetings regarding the redistricting plan. By creating a congressional redistricting commission that must hold meetings in each district, funds are needed to pay for travel expense reimbursement and per diem for staff and commission members. Under this resolution, costs increase for additional meetings compared to current law and for additional staff to attend the meetings.

Administrative Law Judges/Court of Appeals. To the extent that complaints against a lobbyist for failure to fully or accurately report such activity, workload for the Office of Administrative Courts will increase. Workload for the Court of Appeals will also increase to the extent that an Administrative Law Judge decision is appealed. It is assumed this workload can be accomplished within each agency's existing appropriations.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this resolution are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this resolution. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$12,979 in FY 2020-21 and \$72,108 in FY 2021-22.

Election expenditure impact — existing appropriations. This resolution includes a referred measure that will appear before voters at the November 2018 general election. While no additional appropriation is required in this resolution, certain election costs are incurred by the state when ballot measures are referred to voters. These costs, paid using existing appropriations, are in two areas. First, current law requires the state to reimburse counties for costs incurred conducting a ballot measure election, paid from the Department of State Cash Fund in the Secretary of State's Office, estimated at \$3.2 million in FY 2018-19. Second, the text and title of the measure must be published in one legal newspaper per county and an analysis of the measure must be included in the Ballot Information Booklet mailed to all registered voter households, paid from the Ballot Analysis Revolving Fund in the Legislative Department, which is estimated to cost \$2.1 million in FY 2018-19. Publication costs will increase by approximately \$115,000 per measure beyond this base amount for any additional referred or initiated measures placed on the ballot.

Effective Date

The resolution takes effect after the date of the official declaration of the vote by proclamation of the Governor, not later than 30 days after the votes have been canvassed.

State and Local Government Contacts

Judicial
Local Affairs

Law
Legal Services

Legislative Council
Secretary of State