

**Amendment Z  
Legislative Redistricting**

1 **Amendment Z proposes amending the Colorado Constitution to:**

- 2 ♦ replace the Colorado Reapportionment Commission with the Independent  
3 Legislative Redistricting Commission, consisting of members from the state's two  
4 largest political parties and unaffiliated voters, to amend and approve state  
5 legislative district maps drawn by nonpartisan legislative staff;
- 6 ♦ establish a process for selecting commissioners, new requirements for  
7 transparency and ethics, and a procedure for judicial review of commission  
8 maps; and
- 9 ♦ expand the criteria the commission must use for drawing state legislative district  
10 maps.

11 **Summary and Analysis**

12 **Redistricting.** The state legislature has 35 state senators and 65 state  
13 representatives. The U.S. Census is conducted every ten years, and afterward state  
14 legislative districts are redrawn to have nearly equal populations.

15 **Legislative redistricting process in Colorado.** Since voters approved its creation  
16 in 1974, the Colorado Reapportionment Commission (reapportionment commission) has  
17 convened after each U.S. Census to draw a new state legislative district map. The  
18 reapportionment commission consists of 11 members appointed by legislative leaders,  
19 the Governor, and the Chief Justice of the Colorado Supreme Court. The state  
20 legislature provides the reapportionment commission with nonpartisan staff support.  
21 The reapportionment commission is required to draft preliminary maps for state senate  
22 and house districts and hold public hearings on the maps throughout the state. Its final  
23 maps must have the support of a simple majority of commissioners, and they are  
24 submitted to the Colorado Supreme Court for approval.

25 Amendment Z replaces the reapportionment commission with the Independent  
26 Legislative Redistricting Commission (commission), which is charged with drawing the  
27 state's legislative districts. The new commission must have 12 members, four from the  
28 state's largest political party, which is currently the Democratic Party, four from the  
29 state's second largest political party, which is currently the Republican Party, and four  
30 who are not affiliated with any political party. These members are appointed from a pool  
31 of applicants as described below.

32 **Application and appointment process.** Amendment Z sets minimum qualifications  
33 for commissioners. An applicant must be registered to vote and have voted in the  
34 previous two general elections in Colorado, and have been either affiliated with the same  
35 party or unaffiliated with any party for the last five consecutive years. An applicant may  
36 not be appointed to the commission if he or she has been a candidate for the state  
37 legislature within the last five years, or within the last three years been: a professional  
38 registered lobbyist; an elected public official; an elected political party official above the

1 precinct level; or paid by a member of or candidate for the state legislature.  
2 Commissioners may not also serve on the Independent Congressional Redistricting  
3 Commission proposed in Amendment Y.

4 The measure requires nonpartisan legislative staff to prepare an application form for  
5 commissioners after receiving public input on the application at one or more public  
6 hearings. All applications submitted must be posted on a public website. Nonpartisan  
7 legislative staff must review commission applications to ensure applicants meet the  
8 minimum qualifications.

9 The Chief Justice of the Colorado Supreme Court designates a panel of three of the  
10 most recently retired judges from the Colorado Supreme Court or Colorado Court of  
11 Appeals to facilitate the selection of commissioners. Selected judges may not serve on  
12 both the panel that selects this commission and the panel that selects the proposed  
13 Independent Legislative Redistricting Commission. From all of the qualified applicants,  
14 the panel of retired judges randomly selects a pool of 1,050 applicants. The panel  
15 narrows the applicant pool to 150 applicants using criteria related to applicants'  
16 experience, analytical skills, and ability to be impartial and promote consensus.

17 From the 150-person applicant pool, the panel randomly chooses two commissioners  
18 affiliated with the state's largest political party, two commissioners affiliated with the  
19 state's second largest political party, and two commissioners who are not affiliated with a  
20 political party. For the remaining six commissioners, the panel selects two additional  
21 unaffiliated commissioners from the pool of 1,050 applicants, and four commissioners  
22 from applicant pools determined by legislative leaders. The final 12-member commission  
23 will have four Democrats, four Republicans, and four unaffiliated members, unless  
24 another political party becomes the largest or second largest political party in the state.  
25 The final composition of the commission should reflect Colorado's racial, ethnic, gender,  
26 and geographic diversity, and must include members from each congressional district,  
27 including at least one member from the Western Slope.

28 **Commission operations.** Under the measure, the commission is responsible for  
29 adopting rules to govern its administration and operation, and the commissioners are  
30 subject to open meeting laws. Staff for the commission must be assigned from  
31 nonpartisan legislative staff agencies. Commissioners are prohibited from  
32 communicating with nonpartisan legislative staff about any maps outside of a public  
33 meeting or hearing, and staff are prohibited from communicating with outside parties  
34 concerning the development of a redistricting map. Any commissioner who participates  
35 in prohibited communication must be removed from the commission. Any person who  
36 receives compensation for advocating to the commission, one or more commissioners,  
37 or staff is considered a lobbyist and must disclose his or her compensation and its  
38 source to the Secretary of State for publication.

39 **Criteria for drawing legislative districts.** The U.S. and Colorado Constitutions  
40 require state legislative districts to be as nearly equal in population as possible. Under  
41 the federal Voting Rights Act of 1965, the state cannot change voting standards,  
42 practices, or procedures in a way that denies or limits the right to vote based on race or  
43 color or membership in a language minority group. In particular, the act requires that a  
44 minority group's voting strength not be diluted under a redistricting map.

1        Additionally, current state law requires, when drawing state legislative maps, that:

- 2        • districts be contiguous and as compact in area as possible;
- 3        • the division of counties and cities among multiple districts be minimized; and
- 4        • communities of interest be preserved where possible.

5        Amendment Z maintains these criteria, but prioritizes the preservation of  
6 communities of interest and certain political subdivisions that, in their entirety, fit within a  
7 district. It limits the splitting of cities, towns, and counties to those circumstances when a  
8 community of interest, which is a group sharing specific state legislative interests, has a  
9 reason for being kept together in a district that is more essential to the fair and effective  
10 representation of voters. The measure also adopts portions of the Voting Rights Act into  
11 state law. After these criteria are considered, Amendment Z requires the commission to  
12 maximize the number of politically competitive districts, which are defined as having the  
13 reasonable potential for the party affiliation of the district's representative to change at  
14 least once over the decade, to the extent possible. Maps cannot be drawn for the  
15 purpose of protecting incumbents, candidates, or political parties.

16        **Map consideration and public involvement.** The measure directs nonpartisan  
17 commission staff to create preliminary redistricting maps for the state Senate and House  
18 of Representatives, and requires them to consider public comments while developing the  
19 maps. Members of the public may also present proposed redistricting maps and written  
20 comments for the commission's consideration. The commission must hold at least three  
21 public hearings in each congressional district to receive public input before approving a  
22 redistricting map. At least ten commissioners must attend each hearing, either in person  
23 or electronically. These hearings must be broadcast online, and the commission must  
24 maintain a website through which Colorado residents may submit maps or written  
25 comments. All written comments pertaining to redistricting must be published on the  
26 website. After the commission holds its hearings on the preliminary map, staff must  
27 prepare additional maps. The commission can adopt standards and guidelines for staff  
28 to follow when developing staff maps. Any commissioner can request at a public  
29 hearing that staff prepare additional maps or amendments to maps. The commission  
30 can adopt a final map at any time after the presentation of the first staff map.

31        **Final map.** Under the measure, the commission must adopt a final map and submit  
32 it to the Colorado Supreme Court for review. Eight commissioners, including at least two  
33 unaffiliated commissioners, must approve the final map, and the map must be made  
34 public before the commission votes on it. If the commission fails to submit a final map, a  
35 staff map must be submitted, without amendments, to the Colorado Supreme Court for  
36 judicial review.

37        The Colorado Supreme Court must approve the final map unless the court finds that  
38 the commission abused its discretion in applying or failing to apply required criteria, in  
39 which case the court must return it to the commission. If returned, the commission has  
40 12 days to hold a hearing and submit a revised map to the Colorado Supreme Court. If  
41 the commission fails to submit a revised map, nonpartisan staff have an additional three  
42 days to submit a revised map. The Colorado Supreme Court must approve a legislative  
43 redistricting map by December 29 of the redistricting year.

*For information on those issue committees that support or oppose the measures on the ballot at the **November 6, 2018**, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:*

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

## 1 Arguments For

- 2 1) Amendment Z limits the role of partisan politics in the redistricting process.  
3 Through the commissioner selection process, checks and balances are in place  
4 to ensure no one political party controls the commission. Applicants must be  
5 qualified to serve on the commission and, unlike the current Reapportionment  
6 Commission, lobbyists and elected officials are prohibited from serving. The  
7 application process relies on unbiased retired judges and random selection,  
8 limiting the appointment power of party leaders. Republicans, Democrats, and  
9 unaffiliated voters must be appointed to the commission in equal numbers.  
10 Additionally, nonpartisan legislative staff draw the district maps, and each map's  
11 approval requires a supermajority vote of the commission, including at least two  
12 unaffiliated commissioners. These provisions keep political parties and politicians  
13 with a vested interest in the outcome from controlling the redistricting process,  
14 encouraging political compromise.
- 15 2) The measure makes the redistricting process more transparent, and protects the  
16 voices of individual voters in the process. Legislative redistricting is conducted  
17 by a more independent commission than currently exists, with safeguards  
18 against undue influence in the preparation and adoption of maps. The  
19 commission is subject to the Colorado Open Records Act, and anyone lobbying  
20 the commission must follow lobbyist disclosure laws. By requiring that map  
21 communications occur in public, Coloradans will be able to see exactly how the  
22 districts are drawn.
- 23 3) The measure brings structure to the redistricting process by using clear, ordered,  
24 and fair criteria in the drawing of districts. By prioritizing factors such as  
25 communities of interest, city and county lines, and political competitiveness, it  
26 provides specific direction to the commission about how it should evaluate  
27 proposed maps. It also prevents the adoption of maps that protect incumbents,  
28 candidates, or political parties, or maps that dilute the electoral influence of racial  
29 or ethnic minorities. This could result in a more diverse pool of candidates for  
30 public office, better reflecting the voters of the state.

## 31 Arguments Against

- 32 1) Amendment Z reduces accountability in the redistricting process. The selection  
33 process the measure proposes will result in a group of commissioners who are  
34 not only not elected, but are not even accountable to elected officials. This  
35 process relies on unelected retired judges to screen applicants and select half of  
36 the commissioners. Further, the commission is staffed by government  
37 employees who are not accountable to the voters, and they may end up drawing

1 the final maps if the commission cannot agree. Legislative staff may have a  
2 vested interest in the outcome of legislative elections that could bias their work  
3 drawing district maps.

4 2) The commissioner selection process outlined in the measure is complex, and half  
5 of the members are determined by random chance. This complicated and  
6 random selection process may prevent individuals with important experience and  
7 knowledge from becoming commissioners. While the goal of the random  
8 selection may be to remove politics from redistricting, unaffiliated commissioners  
9 with partisan views could still be selected, and the selection process may not  
10 result in a commission that can be impartial and promote consensus.

11 3) The measure outlines criteria that may be difficult to apply in an objective  
12 manner. For example, the broad definition of communities of interest is vague  
13 and open to interpretation. The measure also leaves the commission to  
14 determine what a competitive district is without specifying what factors to  
15 consider. Additionally, the four unaffiliated commissioners will have political  
16 leanings that may be difficult to discern, but that could sway how they apply the  
17 criteria and influence the final map, since many critical votes require their  
18 support. The resulting map may serve to protect certain segments of the  
19 population at the expense of others and could result in districts that make no  
20 sense to voters.

## 21 **Estimate of Fiscal Impact**

22 **State revenue.** Beginning in FY 2020-21, Amendment Z may minimally increase  
23 Secretary of State cash fund revenue from fines collected from lobbyists who fail to  
24 disclose the required information.

25 **State expenditures.** Overall, Amendment Z increases state expenditures to fund  
26 the Independent Legislative Redistricting Commission by \$252,065 in FY 2020-21, and  
27 decreases state expenditures by \$65,977 in FY 2021-22, as compared with the  
28 expenses for the current Reapportionment Commission.