

**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 an equal number of members  
4 from each of the state's two largest political parties and unaffiliated voters, to  
5 amend and approve state legislative district maps drawn by nonpartisan  
6 legislative staff;
- 7 ♦ establish a process for selecting commissioners, new requirements for  
8 transparency and ethics, and a procedure for judicial review of commission  
9 maps; and
- 10 ♦ expand and prioritize the criteria the commission must use for adopting state  
11 legislative district maps.

12 **Summary and Analysis**

13 Amendment Z establishes a new process for state legislative redistricting.  
14 Amendment Y, which is also on the 2018 ballot, proposes a similar but separate process  
15 for congressional redistricting.

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

19 **Legislative redistricting process in Colorado.** Since voters approved its creation  
20 in 1974, the Colorado Reapportionment Commission (reapportionment commission) has  
21 convened after each U.S. Census to draw new state legislative district maps. The  
22 reapportionment commission consists of 11 members appointed by legislative leaders,  
23 the Governor, and the Chief Justice of the Colorado Supreme Court. Up to 6 of the  
24 11 members may be affiliated with the same political party. The state legislature  
25 provides the reapportionment commission with nonpartisan staff support. The  
26 reapportionment commission is required to draft preliminary maps for state senate and  
27 house districts and hold public hearings on the maps throughout the state. Its final maps  
28 must have the support of a simple majority of commissioners, and they are submitted to  
29 the Colorado Supreme Court for approval.

30 Amendment Z replaces the reapportionment commission with the Independent  
31 Legislative Redistricting Commission (commission), which is charged with drawing the  
32 state's legislative districts. The new commission must have 12 members, 4 from the  
33 state's largest political party, which is currently the Democratic Party, 4 from the state's  
34 second largest political party, which is currently the Republican Party, and 4 who are not  
35 affiliated with any political party. These members are appointed from a pool of  
36 applicants as described below.

1        **Application and appointment process.** Amendment Z sets minimum qualifications  
2 for commissioners. An applicant must be registered to vote and have voted in the  
3 previous two general elections in Colorado, and have been either affiliated with the same  
4 party or unaffiliated with any party for the last five consecutive years. An applicant may  
5 not be appointed to the commission if he or she has been a candidate for the state  
6 legislature within the last five years, or within the last three years been: a professional  
7 registered lobbyist; an elected public official; an elected political party official above the  
8 precinct level; or paid by a member of or candidate for the state legislature.  
9 Commissioners may not also serve on the Independent Congressional Redistricting  
10 Commission proposed in Amendment Y.

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

16        The Chief Justice of the Colorado Supreme Court designates a panel of three of the  
17 most recently retired judges from the Colorado Supreme Court or Colorado Court of  
18 Appeals to facilitate the selection of commissioners. No more than one of the three  
19 judges may be registered with any one political party, and the panel's decisions must be  
20 unanimous. Selected judges may not also serve on the panel that facilitates the  
21 selection of the proposed Independent Congressional Redistricting Commission. From  
22 all of the qualified applicants, the panel of retired judges randomly selects a pool of  
23 1,050 applicants. The panel then narrows the applicant pool to 150 applicants using  
24 criteria related to applicants' experience, analytical skills, and ability to be impartial and  
25 promote consensus.

26        From the 150-person applicant pool, the panel randomly chooses 2 commissioners  
27 affiliated with the state's largest political party, 2 commissioners affiliated with the state's  
28 second largest political party, and 2 commissioners who are not affiliated with a political  
29 party. For the remaining 6 commissioners, the panel selects 2 additional unaffiliated  
30 commissioners from the pool of 1,050 applicants, and 4 commissioners from applicant  
31 pools determined by legislative leaders. The final 12-member commission will have  
32 4 Democrats, 4 Republicans, and 4 unaffiliated members, unless another political party  
33 becomes the largest or second largest political party in the state. The final composition  
34 of the commission should reflect Colorado's racial, ethnic, gender, and geographic  
35 diversity, and must include members from each congressional district, including at least  
36 one member from the Western Slope.

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

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

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

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

11       Amendment Z maintains these criteria, but prioritizes the preservation of  
12 communities of interest and certain political subdivisions that, in their entirety, fit within a  
13 district. It limits the splitting of cities, towns, and counties to those circumstances when a  
14 community of interest, which is a group sharing specific state legislative interests, has a  
15 reason for being kept together in a district that is more essential to the fair and effective  
16 representation of voters. The measure also incorporates principles of the Voting Rights  
17 Act into state law and prohibits the commission from adopting a map that violates its  
18 provisions.

19       After these criteria are considered, Amendment Z requires the commission to  
20 maximize the number of politically competitive districts, which are defined as having the  
21 reasonable potential for the party affiliation of the district's representative to change at  
22 least once over the decade, to the extent possible. Maps cannot be drawn for the  
23 purpose of protecting incumbents, candidates, or political parties.

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

39       **Final maps.** Under the measure, the commission must adopt final maps for state  
40 senate and house districts and submit them to the Colorado Supreme Court for review.  
41 At least 8 of the 12 commissioners, including at least 2 unaffiliated commissioners, must  
42 approve the final maps, and the maps must be made public before the commission votes  
43 on it. If the commission fails to submit the final maps, staff maps must be submitted,  
44 without amendments, to the Colorado Supreme Court for judicial review.

1 The Colorado Supreme Court must approve the final maps unless the court finds that  
2 the commission abused its discretion in applying or failing to apply required criteria, in  
3 which case the court must return it to the commission. If returned, the commission has  
4 12 days to hold a hearing and submit the revised maps to the Colorado Supreme Court.  
5 If the commission fails to submit revised maps, nonpartisan staff have an additional  
6 three days to submit revised maps. The Colorado Supreme Court must approve the  
7 legislative redistricting maps 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>

## 8 Arguments For

- 9 1) Amendment Z limits the role of partisan politics in the redistricting process.  
10 Through the commissioner selection process, checks and balances are in place  
11 to ensure no one political party controls the commission. Applicants must be  
12 qualified to serve on the commission and, unlike the current reapportionment  
13 commission, lobbyists and politicians are prohibited from serving. The selection  
14 process limits the appointment power of party leaders by relying on retired judges  
15 and random selection. Republicans, Democrats, and unaffiliated voters must be  
16 appointed to the commission in equal numbers. Additionally, nonpartisan  
17 legislative staff draw the district maps, and each map's approval requires a  
18 supermajority vote of the commission, including at least two unaffiliated  
19 commissioners. These provisions keep political parties and politicians with a  
20 vested interest in the outcome from controlling the redistricting process,  
21 encouraging political compromise.
- 22 2) The measure makes the redistricting process more transparent and provides  
23 greater opportunity for public participation. Legislative redistricting is conducted  
24 by a more independent commission than currently exists, with safeguards  
25 against undue influence in the preparation and adoption of maps. The  
26 commission is subject to state open records and open meetings laws, and  
27 anyone paid to lobby the commission has 72 hours to disclose their lobbying  
28 activities. By requiring that map-related communications occur in public,  
29 Coloradans will be able to see exactly how the districts are drawn.
- 30 3) The measure brings structure to the redistricting process by using clear, ordered,  
31 and fair criteria in the drawing of districts. By prioritizing factors such as  
32 communities of interest, city and county lines, and political competitiveness, it  
33 provides specific direction to the commission about how it should evaluate  
34 proposed maps. It also prevents the adoption of maps that protect incumbents,  
35 candidates, or political parties, or maps that dilute the electoral influence of racial  
36 or ethnic minorities.

## 1 **Arguments Against**

- 2 1) Amendment Z reduces accountability in the redistricting process. The selection  
3 process the measure proposes will result in a group of commissioners who are  
4 not only not elected, but are not even accountable to elected officials. This  
5 process relies on unelected retired judges to screen applicants and select half of  
6 the commissioners. Further, the commission is staffed by government  
7 employees who are not accountable to the voters, and they may end up drawing  
8 the final maps if the commission cannot agree. Legislative staff may have a  
9 vested interest in the outcome of legislative elections that could bias their work  
10 drawing district maps.
- 11 2) The commissioner selection process outlined in the measure is complex, and half  
12 of the members are determined by random chance. This complicated and  
13 random selection process may prevent individuals with important experience and  
14 knowledge from becoming commissioners. While the goal of the random  
15 selection may be to remove politics from redistricting, unaffiliated commissioners  
16 with partisan views could still be selected, and the selection process may not  
17 result in a commission that can be impartial and promote consensus.
- 18 3) The measure outlines criteria that may be difficult to apply in an objective  
19 manner. For example, the broad definition of communities of interest is vague  
20 and open to interpretation. The measure also leaves the commission to  
21 determine what a competitive district is without specifying what factors to  
22 consider. Additionally, the four unaffiliated commissioners will have political  
23 leanings that may be difficult to discern, but that could sway how they apply the  
24 criteria and influence the final maps, since many critical votes require their  
25 support. The resulting maps may serve to protect certain segments of the  
26 population at the expense of others and could result in districts that make no  
27 sense to voters.

## 28 **Estimate of Fiscal Impact**

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

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