SUPREME COURT, STATE OF COLORADO 101 West Colfax Avenue, Suite 800 Denver, Colorado 80202	
Original Proceeding Pursuant to the Colorado Rules for Reapportionment Proceedings	▲ **COURT USE ONLY** ▲
IN RE REAPPORTIONMENT OF THE COLORADO GENERAL ASSEMBLY	Case No. 11SA282
Attorneys for Colorado Reapportionment Commission: McKenna Long & Aldridge LLP David R. Fine, #16852 Richard C. Kaufman, #8343 Jennette C. Roberts, #35502 Joseph G. Martinez, #38956 1400 Wewatta Street, Suite 700 Denver, CO 80202-5556 Telephone: (303) 634-4000 Facsimile: (303) 634-4400 Colorado Reapportionment Commission Jeremiah B. Barry, #10400 Kate Meyer, #38059 Troy C. Bratton, #39807 Colorado Reapportionment Commission 1313 Sherman Street, Room 122 Denver, Colorado 80203 Telephone: (303) 866-3950 Facsimile: (303) 866-3945	
REPLY TO STATEMENTS OF OPPOSITION	

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES ii

I. INTRODUCTION 1

II. THE COMMISSION WAS GUIDED BY THIS COURT'S 2002 REAPPORTIONMENT OPINION 1

III. THE COURT SHOULD REVIEW THE PLAN IN A HOLISTIC FASHION 3

IV. THE ADOPTED PLAN MEETS THE REQUIREMENTS OF COLO. CONST. ART. V, §47(2) 4

- A. Senate 5
  - 1. Jefferson County 6
  - 2. Arapahoe County 6
  - 3. Boulder County 9
- B. House 11
  - 1. Large Counties 11
    - i. Weld County 14
    - ii. Arapahoe and Jefferson Counties 15
  - 2. Small Counties 18
- A. House District 65 19
- B. House District 47 20
- C. House Districts 58 and 59 21
- D. Town of Superior 21

V. ARGUMENTS CONCERNING COMPACTNESS 22

VI. ARGUMENTS CONCERNING COLORADO SPRINGS 26

VII. GARFIELD COUNTY 27

VIII. DOUGLAS COUNTY 28

IX. ADDITIONAL ARGUMENTS OF CCFR 30

X. CONCLUSION 35

TABLE OF AUTHORITIES

Page(s)

CASES

Acker v. Love,
496 P.2d 75 (Colo. 1972).....23

Allen v. Bd. of Commns. of Lincoln Cnty.,
497 P.2d 1026 (Colo. 1972).....25

In re 1983 Legislative Apportionment of House, Senate & Cong. Dists,
469 A.2d 819 (Me. 1983).....24

In re Pa. Legislative Reapportionment Comm'n,
609 A.2d 132 (Pa. 1992).....25

In re Reapportionment 2002,
46 P.3d 1083 (Colo. 2002).....27

In re Reapportionment of the Colo. Gen. Assembly,
45 P.3d 1237 (Colo. 2002).....passim

In re Reapportionment of the Colo. Gen. Assembly,
647 P.2d 191 (Colo. 1982).....4, 23, 31

In re Reapportionment of the Colo. Gen. Assembly,
828 P.2d (Colo. 1992).....18, 25, 31

Lucas v. Forty-Fourth Gen. Assembly of Colo.,
377 U.S. 713 (1964).....29

Op. to the Governor,
221 A.2d 799 (R.I. 1966).....23, 24

Reynolds v. Sims,
377 U.S. 533 (1964).....29

STATUTES

42 U.S.C. §§ 1973–1973aa-6.....16, 18

OTHER AUTHORITIES

14th Amendment 28, 34

15th Amendment.....34

Colo. Const. Art. V, § 46 .....26, 29, 32

Colo. Const. Art. V, § 47 .....passim

Colorado Constitution.....passim

U.S. Const. Amend. XIV, § 1 29

I. INTRODUCTION

The Colorado Reapportionment Commission ("Commission") submits the following Reply to the objections filed against the final reapportionment plan submitted to the Court (the "Adopted Plan"). The Adopted Plan is constitutional and should be approved by the Court for the reasons stated here and in the Commission's Memorandum in Support of Adopted Plan ("Memorandum").

II. THE COMMISSION WAS GUIDED BY THIS COURT'S 2002 REAPPORTIONMENT OPINION

Certain objectors, in particular Colorado Citizens for Fair Representation ("CCFR"), would like this Court to believe it is back in 2002. However, as a result of the Court's decision in *In re Reapportionment of the Colo. Gen. Assembly ("In re Reapportionment 2002")*, 45 P.3d 1237, 1247 (Colo. 2002), the Court is presented here with a very different reapportionment plan.

For example in 2002, the Court determined that seven counties were not provided sufficient whole senate districts to which they were potentially entitled: Douglas, Pueblo, Boulder, Jefferson, Adams, Arapahoe and Mesa. Arapahoe County was split between three adjacent counties, leaving it with one senate district wholly contained within the county, when it was entitled to 3.93 districts. The Court determined that this was because the Commission began the reapportionment process by drawing three senate districts on the Eastern Plains,

which in turn caused a significant reduction in the number of whole senate districts in one of the metropolitan Denver counties.

Here, in the Adopted Plan, only one county, Arapahoe, arguably does not receive all of the whole senate districts to which it is entitled (as discussed below, the Adopted Plan's treatment of Arapahoe County is constitutional). Why the difference? The Commission had the benefit of this Court's decision and worked diligently to comply with it.

CCFR contends, without any factual support, that the Commission followed the "region-based" approach rejected by the Court in *In re Reapportionment 2002*. In fact, from the beginning of the 2011 process, the Commission had numerous discussions about the requirements of section 47(2) and this Court's interpretation of that section, particularly its 2002 reapportionment decision. *See* Affidavit of Jeremiah Barry, attached hereto as Exhibit 1, at ¶ 2. The Commission understood at the outset that its goal was to provide whole districts to counties that qualified for them. The Commission divided the state into regions solely for the logistical purpose of holding public hearings. No part of the Adopted Plan followed as a result of starting the plan at any particular geographical location. *See* Barry Affidavit at ¶ 3. At its second meeting on May 16, 2011, the Commission reviewed a document that showed the number of whole districts that could be drawn for any county whose population exceeded the ideal district size – a fact

acknowledged in the Joint Affidavit of Stephen C. Tool and Mario D. Nicolais.[1] The Commission also reviewed the language of this Court's 2002 reapportionment opinion at that meeting. *See* Barry Affidavit at ¶ 2.

CCFR makes no showing whatsoever of any causal relationship between the Commission's process and the parts of the Adopted Plan CCFR finds objectionable, because there is none. CCFR's conclusory statements supported by no facts should not be credited by the Court.

III. THE COURT SHOULD REVIEW THE PLAN IN A HOLISTIC FASHION

Understandably, certain objectors, like individual counties, object to the Adopted Plan's treatment of their respective city or county. Other objectors, notably CCFR, level broadsides against the Adopted Plan, and even suggest new legal theories on which the Court should base its ruling. While the Commission will address all objections below, it must stress that the reapportionment process is a classic zero-sum game. No material modification to any challenged part of the Adopted Plan can occur in isolation. Rather, any material change necessarily precipitates other changes, likely to carry consequences to which different objections could be raised. Therefore, it is not enough for the objectors to identify an alternative component for an isolated area of the plan, and assume that it may simply be inserted into that part of the Adopted Plan and solve the particular

[1] *See* Exhibit A to Exhibit F (sic) to the Statement of Opposition of CCFR.

concern. Because the plan was built as a whole, and not by component parts, a material modification in one area will have ripple effects and cause a different Adopted Plan to be presented to the Court, not only for the affected area, but for other areas beyond. *In re Reapportionment of the Colo. Gen. Assembly ("In re Reapportionment 1982")*, 647 P.2d 191, 196 (Colo. 1982). ("Each detail of the reapportionment plan which we might disapprove would require the Commission to make changes which have a 'ripple effect,' necessitating numerous other changes in the reapportionment scheme.")

Finally, the Adopted Plan represents hours of negotiation by the Chair to reach a bipartisan compromise among commission members. Material changes to the plan will potentially undo that effort and those compromises.

IV. THE ADOPTED PLAN MEETS THE REQUIREMENTS OF COLO. CONST. ART. V, §47(2).

The Adopted Plan must be: (1) "sufficiently attentive to county boundaries to meet the requirement of section 47 (2)," and (2) accompanied by" an adequate factual showing that less drastic alternatives could not have satisfied the equal population requirement of the Colorado Constitution, *In re Reapportionment 2002*, 45 P.3d at 1249. As described in the Memorandum and below, the Adopted Plan is sufficiently attentive to county boundaries and the Commission has provided an adequate factual showing that the Adopted Plan represents the least drastic

alternative with regard to those aspects of the Adopted Plan challenged by the objectors.

A. Senate[2]

The following chart shows the population for each county with population greater than an ideal senate district, divides that population by the ideal senate district size, and indicates the number of whole districts assigned to that county in the Preliminary Plan and Adopted Plan:

County	Population	Population Divided by Ideal Senate District	Number of Whole Districts Within County in Preliminary Plan	Number of Whole Districts Within County in Adopted Plan
Adams	441,603	3.07	3	3
Arapahoe*	564,343*	3.93	3	3
Boulder	294,567	2.05	2	2
Denver**	608,098**	4.23	4	4
Douglas	285,465	1.99	2	2
El Paso	622,263	4.33	4	4
Jefferson	534,543	3.72	2	3
Larimer	299,630	2.09	2	2
Mesa	146,723	1.02	1	1
Pueblo	159,063	1.11	1	1
Weld	252,825	1.76	1	1

[2]Objections related to the Senate Adopted Plan not being sufficiently attentive to county boundaries were filed by the Town of Superior, Arapahoe County, Douglas County, and CCFR.

*572,003 less 7,660 for enclaves within Denver
**600,158 plus 7,660 for Arapahoe County enclaves and 280 for Jefferson County enclaves

1. *Jefferson County*

The Adopted Plan gives whole districts to every county whose population would entitle the county to a whole number of districts equal to the whole numbers obtained by dividing the county population by this idea district size.[3] As the chart shows, the Preliminary Plan gave Jefferson County two whole senate districts. The Commission heard considerable public testimony from citizens of Jefferson County asking that the Commission create three whole districts within Jefferson County. The Commission responded to those requests and created the three whole districts within Jefferson County in the Adopted Plan. *See* Barry Affidavit at ¶ 4. In addition, Douglas County received two whole districts, unlike 2002, when it received none.

2. *Arapahoe County*

CCFR and Arapahoe County's central objection is that Arapahoe County, although its adjusted population divided by the ideal senate district size is 3.93, should have received four whole senate districts rather than three. The Commission did review plans that created four whole districts in Arapahoe similar to Final Senate Plan 001v2 referenced in the objections. However, every plan that

[3]The Commission acknowledges that it is mathematically possible to create four whole districts within Arapahoe County.

created four whole senate districts in Arapahoe County also required the Commission to draw a senate district that started from, and included population from, the City and County of Denver, cut through Jefferson County, and then stretched through the whole mountain counties of Clear Creek and Gilpin. An example of such a district can be seen in Final Plan Senate 001v2. *See* Barry Affidavit at ¶ 5.

The Adopted Plan, in Senate district 26, joins 22,660 residents of southeast Denver with 124,296 residents of neighboring communities in Arapahoe County. Arapahoe County residents make up 84.5% of this district. This is less drastic than joining residents of Denver with residents of three other counties, including Clear Creek and Gilpin, in an oddly configured, non-compact district.

In contrast with the disparate areas involved in such a district, Denver and Arapahoe County are already combined through enclaves, and share other communities of interest, such as the Denver Tech Center, part of which is in both Denver and Arapahoe County, within District 26. *See* Barry Affidavit at ¶ 5.

Finally, the Adopted Plan honors Jefferson County's integrity far more than Final Plan Senate 001v2, which uses Jefferson County merely as a bridge between Denver and the mountain counties, and combines it with three other counties. Yet it still affords Arapahoe County significant representation within the fourth district.

To be clear, and contrary to CCFR's wholly unsupported suggestion, the creation of Senate district 26 is not the result of where the Commission chose to start drawing its plan or from the Commission's dividing the state into regions for purposes of receiving public testimony and drawing preliminary plans. It is required by the census population. As the above chart shows, the population of Denver divided by the ideal senate district size is 4.23. Although four senate districts can be created within Denver, the population is too great to be absorbed within those four districts and maintain the 5% deviation permitted by the Constitution. Therefore some portion of Denver's population must be joined with the population of another county.

Denver is only contiguous with three counties – Adams, Arapahoe, and Jefferson – so its population must be joined with one of those three counties. The population of Adams County divided by the ideal senate district size is 3.07, so it is possible to draw three whole senate districts within Adams County and not join the population of Adams County with the population of any other county. The Adopted Plan did so.

The only other alternative was for the Commission to join Denver's population with Jefferson County. However, since Jefferson County's population divided by the ideal senate district size is 3.72, Jefferson County is entitled to three

whole senate districts.[4] As a result, the Denver population would have to be joined with the excess population of Jefferson County after giving Jefferson County its three whole districts. The remaining population of Jefferson County plus the excess population from Denver is insufficient to form a senate district. Therefore, that population would have to be joined with population from one or more counties. *See* Barry Affidavit at ¶ 5. The population of the mountainous counties of Clear Creek and Gilpin were the only counties that might have been joined with Denver and Jefferson County without requiring another county to be split.

Therefore, the Commission was faced with adopting a senate district that stretched from Denver to the mountains or moving a relatively small percentage of Denver's population into a neighboring district with Arapahoe County. By a nine to two vote, the Commission determined that the latter was a less drastic alternative. *See* Summary of Meeting of September 12, 2001, Exhibit 11 to Memorandum.

3. *Boulder County*

The Town of Superior, Douglas County, and CCFR object to the inclusion of a portion of Boulder County in Senate District 16. Again, Jefferson County's population divided by the ideal senate district size is 3.72, so the Commission

[4]The Preliminary Plan also joined Denver with Jefferson County. However, under the Preliminary Plan Jefferson County only received two whole senate districts. As noted above, during the public hearing portion of the Commission's work, it heard considerable testimony from residents of Jefferson County asking for three whole senate districts. The Adopted Plan gives Jefferson County three whole senate districts.

created three whole senate districts in Jefferson County. The additional population of Jefferson County had to be added to the population of one or more additional counties to create a senate district. When that population was added with the populations of Clear Creek and Gilpin Counties there was still not enough population to form a senate district within the 5% deviation permitted by the Colorado Constitution. Accordingly, the Commission had to take population from another county to create an additional whole district. *See* Barry Affidavit at ¶ 6.

Boulder County's population divided by the ideal senate district size was 2.05.[5] The Commission was able to give Boulder County its two whole senate districts. The population which remained from Boulder County after the creation of two whole senate districts was sufficient, when added to the populations of Jefferson, Clear Creek, and Gilpin Counties[6] to create the whole senate district. This split of Boulder County, while still giving it its two full districts was less drastic and preferable to splitting another small county to create a whole senate district.

[5]The population of Boulder County is just over 2.05% of the ideal senate district. It would be possible to draw two senate districts within Boulder and not have another district extend into Boulder County, but one of those districts would be one person over the 2.5% above the ideal district. The Commission therefore would have to ensure that no other district was less than two persons under 2.5% of the ideal district to maintain the 5% deviation permitted by the Constitution.

[6]It is worth noting that the Town of Superior is presently joined with Clear Creek, Gilpin, Summit and Jefferson counties in existing Senate District 16. *See* Barry Affidavit at ¶ 7.

B. House[7]

Objections to the House portion of the Adopted Plan related to the attentiveness to county boundaries fall into two categories: (1) large counties were not given the number of whole house districts to which they contend they are entitled; and (2) the splitting of certain smaller counties was not required by equal population. As discussed below, the objections do not warrant modification of the Adopted Plan.

1. *Large Counties*

The following chart shows the population for each county whose population is greater than an ideal house district size, divides that population by the ideal house district size, and indicates the number of whole districts assigned to that county in the Preliminary and Adopted Plans:

County	Population	Population Divided by Ideal House District	Number of Whole Districts Within County in Preliminary Plan	Number of Whole Districts Within County in Adopted Plan
Adams	441,603	5.17	5	5
Arapahoe	565,243*	7.31	7	6
Boulder	294,567	3.81	3	3
Denver	608,098**	7.86	8	8
Douglas	285,465	3.69	3	3

[7]The following filed objections to the House Adopted Plan not being sufficiently attentive to county boundaries: Las Animas County, Southwest Colorado Citizens for a Constitutional Map and Club 20, Weld County, Town of Superior, Jefferson County, Arapahoe County, Elbert, El Paso, and Yuma Counties, Douglas County, and CCFR.

El Paso	622,263	8.04	7	8
Jefferson	534,543	6.91	7	6
Larimer	299,630	3.87	3	3
Mesa	146,723	1.90	1	1
Pueblo	135,815***	1.76	1	1
Weld	252,825	3.27	2	2
*572,003 less 6,760 for enclaves within Denver **600,158 plus 7,660 for Arapahoe County enclaves and 280 for Jefferson County enclaves ***159,063 less 23,248 assigned to HD 62 to make Hispanic majority district				

Of the eleven counties whose population is in excess of an ideal house district size, the Adopted Plan gives to eight the whole number of districts shown in the third column, with Weld and Arapahoe Counties being the only exceptions.[8]

It is useful to compare the House portion of the Adopted Plan to the House portion of the plan approved by the Court in 2002:

County Populations and House Districts Based on 2000 Census and 2002 Reapportionment Plan			
County	2000 Population	Population Divided by Ideal House District Size	Number of Whole House Districts Within County
Adams*	363,857	5.50	5
Arapahoe**	487,967	7.37	6
Boulder*	291,288	4.40	3
Denver**	554,636	8.38	7

[8]The Commission acknowledges that although the division of Jefferson County's population by the ideal district size is 6.91, it is possible to draw seven districts wholly within Jefferson County.

Douglas	175,766	2.66	2
El Paso	516,929	7.81	7
Jefferson*	527,056	7.96	8
Larimer	251,494	3.80	3
Mesa	116,255	1.76	1
Pueblo***	141,472	2.14	1
Weld*	180,936	2.73	2

*The figures for Adams, Boulder, Jefferson, and Weld do not take into account population for the City & County of Broomfield that was created after the census bureau finalized its geography.
**The figures for Arapahoe and Denver do not reflect the enclaves of Arapahoe County within Denver.
*** Again, a portion of the population from Pueblo was assigned to HD 62 in the San Luis Valley to create a Hispanic majority district

The plan approved in 2002 provided eight of the above eleven counties the total number of house districts to which they were entitled according to the Colorado Supreme Court's decision in *In re Reapportionment 2002*, 45 P.3d 1237 (Colo. 2002): Adams, Douglas, El Paso, Jefferson, Larimer, Mesa, Pueblo and Weld. The plan allotted Arapahoe, Boulder, and Denver counties fewer whole districts than could potentially be provided. Nevertheless, the Court held that the House portion of that plan did not present "issues of constitutional compliance." 45 P.3d at 1249. The House portion of the Adopted Plan here also provides eight of the eleven counties their full complement of districts: Adams, Boulder, Denver, Douglas, El Paso, Jefferson, Larimer, Mesa and Pueblo.

i. Weld County

The Preliminary Plan only created two house districts within Weld County. Although the Commission often heard from residents of other counties who thought their county should have received an additional whole district, the Commission heard no one from Weld County argue for an additional house district even though there was a public hearing in Greeley. *See* Barry Affidavit at ¶ 8.

Only one of the five final, House plans reviewed by the Commission after the public hearings attempted to create three house districts within Weld County – Final Plan House 002v2. Similar to the senate plan that created a district from Denver to the mountains, that plan necessitated creation of a problematic district.

Proposed House District 29 would start with the agricultural communities of Washington County and extend far into the urban and suburban areas of Adams and Arapahoe Counties, combining the agricultural communities of Washington County with the urban areas of old town Aurora at the intersection of Colfax Avenue and Yosemite Street at the border between Denver and Adams County. *See* Barry Affidavit at ¶ 9.

District 29 is required under Final Plan House 002v2 because the population of Washington County cannot be added to the population of the whole, rural counties on the eastern plains contained in District 65 without exceeding the 5% deviation.

Thus, the only plan that the Commission had before it which would have created three whole districts in Weld County, Final Plan House 002v2 would have required the population of Washington County to be added to the urban areas of Adams and Arapahoe Counties. Again, the Commission arrived at a less drastic alternative. In the Adopted Plan, House District 65 remains an agricultural district. It comprises the whole counties of Sedgwick, Logan, Phillips, Washington, and Yuma, the rural portions of Adams and Arapahoe Counties and the portion of Elbert County not in House District 64. House District 65 includes 11,429 people from Adams County and 7,220 people from Arapahoe County. In Adams County, to the north it does not extend past Interstate 76 and to the south, it includes the town of Watkins. In Arapahoe County, House District 65 does not extend past the eastern border of the City of Aurora. Finally, House District 63, which includes the rural portions of Weld and Morgan Counties, is an Hispanic influence district.

ii. Arapahoe and Jefferson Counties

The Commission learned that the population of the City of Aurora now comprises a majority of minorities, yet few minorities are elected to the General Assembly from Aurora. Moreover, according to the website of the State Demographer, the Hispanic population in Aurora grew by 38,499 or 70.3% between 2000 and 2010. This accounted for over 79% of the growth in the population in Aurora. *See* Barry Affidavit at ¶ 10. Despite this significant

Hispanic population, no Hispanic is currently serving from any of the twelve house and senate districts that include part of the City of Aurora. *Id*. at ¶ 11.[9]

As noted in its Memorandum, the Commission was determined to comply with section 2 of the federal Voting Rights Act in connection with drawing districts in Aurora. Unlike the San Luis Valley where the Commission was able to obtain information indicating racial bloc voting, the Commission found no elections in Aurora involving Hispanic and Anglo candidates from which its expert could opine regarding a potential section 2 violation. *See* Barry Affidavit at ¶ 12.

Nonetheless concerned about Voting Rights Act implications, the Commission attempted to increase the number of districts that included a portion of Aurora from which a minority candidate might be elected. The Commission first discussed creating a Hispanic majority district by joining a portion of Arapahoe County with a portion of Adams County at its hearing on July 18, 2011. *See* Barry Affidavit at ¶ 13. Commissioner Nicolais offered H6001v2/H7001v2, which was eventually adopted by the Commission as part of its Preliminary Plan. *Id.* House District 56 in the Adopted Plan is very similar to the district in the Preliminary Plan in that it covers a portion of Adams County just east and south of Denver International Airport and extends into Arapahoe County where Arapahoe County borders the City and County of Denver. *See* Barry Affidavit at ¶ 14.

[9]Indeed, of the twelve senators and representatives from Aurora, only one is of African American or Hispanic descent. *See* Barry Affidavit at ¶ 9.

Hispanics comprise 50.60% of its population, and African American 17.57%, for a total minority population of 73.31%. The Arapahoe County portion of House District 56 is wholly within the City of Aurora and it includes all of the City of Aurora that lies in Adams County into one district.

The Adopted Plan then contains six House districts wholly within Arapahoe County. House District 42 is wholly within the City of Aurora. It is a Hispanic influence district with a Hispanic population of 31.26%. Its African American population is 21.09% and its total minority population is 59.59%. House District 41 is also a minority influence district with all minorities comprising 44.63% of the population.

The remainder of southeastern Arapahoe County is in House District 38, but with insufficient population to form a whole house district. House District 38 therefore includes a portion of Jefferson County. Once the population from Jefferson County was added to House District 38, there remained insufficient population to create seven house districts wholly within Jefferson County.

The Commission's inability to create seven whole districts within Arapahoe and Jefferson Counties is similar to its inability to create two whole districts within Pueblo County and still honor Voting Rights Act requirements. In Pueblo County a portion of the population is joined with counties in the San Luis Valley to create a Hispanic majority district, causing Pueblo County to only receive one whole

house district. Similarly, when the Commission took population out of Arapahoe County to form an Hispanic majority district, it left House District 38 in Arapahoe County short of the necessary population, and when population from Jefferson County was added to House District 38, the Commission was unable to draw seven whole districts in Jefferson County. As in the San Luis Valley however, the Commission determined that Voting Rights Act considerations required this district configuration. *See In re Reapportionment of the Colo. Gen. Assembly ("In re Reapportionment 1992")*, 828 P.2d at 192 (Colo. 1992), (Commission attempted to apply the proper legal standards to the Voting Rights Act claims raised and made a good faith effort to comply with Section 2 of the Act).

2. *Small Counties*[10]

Southwest Citizens, Elbert County, Las Animas County, and CCFR object to Elbert, Las Animas, and San Miguel Counties each containing two house districts. The following chart shows the small counties that were split in the Preliminary Plan, the Adopted Plan and the 2002 plan approved by this Court:

[10]"Small counties" here means counties whose population does not qualify them for a whole house district.

Small Counties Split		
Preliminary Plan	Adopted Plan	2002 Approved Plan
Delta	Delta	Delta
Eagle	Eagle	Eagle
Fremont	Elbert	Fremont [three Districts]
Garfield	Garfield	Garfield
Gunnison	Las Animas	Saguache
Montezuma	Montezuma	Montezuma
Morgan	San Miguel	Huerfano

Thus, the Adopted Plan splits the same number of small counties as the Preliminary Plan and as the plan approved in 2002.

A. House District 65

The Preliminary Plan split Morgan County. At both the public hearings in Sterling and Greeley, the Commission heard requests from Morgan County citizens asking that it be kept whole.[11] As indicated in the Memorandum, the Commission decided to keep Morgan County whole[12] and join it with the rural portions of Weld County to create an additional minority influence district. Keeping Morgan County caused the remaining counties in House District 65 to have insufficient

[11]*See* Staff Summary of Meeting in Sterling, Exhibit 12 to Memorandum, Tab O, Pages 2 and 3. *See* Barry Affidavit at ¶ 9.

[12]Other statewide final plans reviewed by the Commission also contained a partial county in northeastern Colorado. In Final Plan House 002v3, Morgan County was in HD 49 and HD65. In Final Plan House 001v2, Kit Carson County was divided between HD65 and HD 64 and Weld County contained portions of both HD 65 and HD 49. *See* Barry Affidavit, ¶ 15. Although Final House Plan 002v2 did not divide counties in this area between districts, it orphaned Washington County as discussed in pages 16 to 19, *supra*.

population under the allowable 5% deviation. Because the population of each of the whole counties adjoining House District 65 was larger than could be added to House District 65 without exceeding the 5% deviation, one such small county had to be split.

B. House District 47

According to the State Demographer, 41.6% of the population of Las Animas County is Hispanic. *See* Barry Affidavit at ¶ 16. The Commission sought to create a House district where this population would be able to exert some influence. The Preliminary Plan kept Las Animas County whole and joined it with the rural portions of Pueblo County. However, Hispanics would have comprised only 28.99% of its population.

Additionally, at the public hearing in Trinidad, the Commission received testimony that Las Animas County had more in common with the counties to the east than with Pueblo. *See* Barry Affidavit at ¶ 17. While the population of Las Animas County was too large to place all of it in House District 64, the Commission was able to move the eastern portion of the county, that portion that would have most in common with the counties to the east, into House District 64, increasing the percentage of Hispanics in House District 47 to 32.35%.

C. House Districts 58 and 59

The Commission heard extensive comments at its public hearings about its Preliminary Plan for house districts 58 and 59. Nearly all favored dividing House Districts 58 and 59 between east and west rather than north and south as the preliminary plan had done, but with conflicting testimony on how best to do so. Some people supported putting the three ski areas of southwestern Colorado together in a single house district, while others opposed such a plan because of the difficulty of traveling the areas during the winter months. The Commission concluded that the ski areas constituted a community of interest that should be preserved in a single district. This decision is within the Commission's discretion. *In re Reapportionment 2002*, 45 P.3d at 1253. San Miguel County extends from the Telluride to the Colorado border. If all of San Miguel County were placed in House District 59, the population of the contiguous portions of House District 58 would not be sufficient to create a house district within the 5% deviation. Hence the Commission was required to divide San Miguel County between House Districts 58 and 59. *See* Barry Affidavit at ¶ 18.

D. Town of Superior

The Town of Superior argues that House District 33 of the Adopted Plan disenfranchises Asian voters by separating them from Boulder County's Asian population. However, House District 33 has an 8% Asian population, almost twice

the percentage of Boulder County's Asian population of 4.1% and more than the 5.7% Asian population of House District 12 in Final Plan House 002v2, in which Superior would be situated. At any rate, the Court defers to the Commission's discretion regarding issues such as this one here, about which plan is preferred by a certain group of citizens. *In re Reapportionment 2002*, 45 P.3d at 1253. ("Issues concerning compactness, communities of interest, and which plan is preferred by a certain group of citizens, must remain within the scope of the Commission's discretion.").

V. ARGUMENTS CONCERNING COMPACTNESS

Three objectors, Southwest Colorado Citizens for a Constitutional Map joined by Club 20,Weld County, and the Town of Superior, filed briefs challenging House Districts 59, 63, 33 and Senate District 16 respectively in the Adopted Plan as violating the compactness requirement of Article V, Section 47(1) of the Colorado Constitution. In each case, the objectors cite the results of either the Roeck Test or the Schwartzberg Test or both as definitive proof these districts violate the constitutional requirement of compactness.

Article V, Section 47(1) states:

> 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.

First, as this Court noted ten years ago, "Issues concerning compactness . . . must remain within the scope of the Commission's discretion." *In re Reapportionment 2002*, 45 P. 3d at 1253. Secondly, the results of a test on a single district should not be relied upon to invalidate a plan. While the test on one district may show that district to be more compact, the redrawing of that district may affect the compactness of other districts. Hence, the language in the Colorado Constitution is that "the aggregate linear distance of *all district boundaries* shall be as short as possible." Colo. Const. Art. V, § 47(1) (emphasis added). Under the Adopted Plan, the total perimeter of all House Districts is 38,455.21 miles, while under Final Plan House 002v2 urged by many opponents it is 39,000.14 miles. Similarly, under the Adopted Plan, the total perimeter of all Senate Districts is 27,835.68 miles while under Final Plan Senate 001v2 it is 27,777.14 miles a difference of 58.54 miles or approximately 0.2%.

This Court first defined compactness in 1972. *Acker v. Love*, 496 P.2d 75, 76 (Colo. 1972):

> Compactness as used in the constitutional sense relating to reapportionment, in our view, concerns a geographic area whose boundaries are as nearly equidistant as possible from the geographic center of the area being considered, allowing for variances caused by population density and distribution, census enumeration districts, and reasonable variations necessitated by natural boundaries and by county lines.

Id. at 76*; See also In re Reapportionment 1982* 647 P.2d 191, 193 (Colo. 1982). The Acker Court cited a Rhode Island Supreme Court case outlining the principles and policy underpinning the concept of compactness, *Opinion to the Governor*, 101 R.I. 203, 221 A.2d 799 (R.I. 1966). That court held that compactness refers to a "principle, rather than to a definition, and has meaning only within an appropriate factual context." *Id* at 802. Compactness was not intended to impose a neat geometric plan for legislative districts. *Id.* The Rhode Island Supreme Court emphasized that the court's role when analyzing legislative districts for compactness rests on whether the body charged with adopting a plan has completely abandoned the constitutional requirement of compactness. Id. at 803. Opponents have made no such showing here. In order to prevail on the compactness question, a petitioner must establish the legislature (in our case the Commission) acted without any rational or legitimate basis and intended instead to create politically gerrymandered districts by drawing districts either to protect incumbents or inhibit specific groups of voters from having effective representation. *Id*. at 802.

In short, it is not enough for those challenging a reapportionment plan to merely allege a given district could have been drawn in a more compact way. Challengers must establish the legislature completely disregarded the principle of compactness and formulated a reapportionment plan based on illegal motives. As

long as the reapportionment body balances the competing constitutional and legal factors, a court will not overturn the plan because one or more districts could be drawn in a more compact configuration. *In re 1983 Legislative Apportionment of House, Senate and Cong. Dists*, 469 A.2d 819 (Me. 1983). This is especially true where a state reapportionment requires both equality of population and respect for political boundaries. In that case, a degree of noncompactness is tolerated unless gerrymandering is the motive. *In re Reapportionment 1992,* 828 P.2d 185 (Colo. 1992) (noncompactness was allowed in order to preserve the political boundaries of a city within one district); *See also In re Pennsylvania Legislative Reapportionment Comm'n,* 530 Pa. 335, 609 A.2d 132 (1992) (held where equality of population and compactness conflict, equality of population is the controlling factor citing *Reynolds v. Sims*, 377 U.S. 533, 84 S. Ct. 1362, 1390-92 (1964)).

Indeed, in a case involving statutory redistricting of county commissioner districts, this Court, citing *Acker*, noted that population equality trumps compactness and approved a plan containing three districts, one of which was 5 square miles while the other two were each over 1,200 square miles. *Allen v. Bd. of Commns. of Lincoln Cnty.*, 497 P.2d 1026, 1028 (Colo. 1972). The Court noted that in legislative reapportionment there are many districts that vary greatly in size and shape but are nonetheless constitutional. *Id.* This Court has recognized that perfect compactness is not possible, especially where other higher priority criteria,

such as population equality, must first be met. *In re Reapportionment of 2002*, 45 P.3d at 1247.

Here, none of three objectors has asserted that the Commission drew House districts 59, 63, or 33 or SD 16 for the illicit motives mentioned above.

For the foregoing reasons, the opponents have not demonstrated that the Adopted Plan violates compactness principles.

VI. ARGUMENTS CONCERNING COLORADO SPRINGS

CCFR and the Elbert County objectors[13] contend that the Adopted Plan unnecessarily splits the City of Colorado Springs. The plain language of the constitution does not support their argument.

Article V, Section 47 (2) provides:

> **Section 47. Composition of districts.** (2) Except when necessary to meet the equal population requirements of section 46, 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. [emphasis added]

Thus, the constitution is concerned with the number of cities split, not the number of splits within any particular city.14 The Court recognized this a decade

[13]Elbert County Board of Commissioners, El Paso County Clerk & Recorder Wayne Williams, El Paso County Treasurer Bob Balink, El Paso County Commissioner Sallie Clark, Yuma County Commissioner Trent Bushner, Bill Jerke, Al Kolwicz, Marty Neilson, Dick R. Murphy, Valarie, Murphy and Jim Paine.

ago when it approved a plan that split the City of Boulder multiple times, despite objections to that part of the plan. *See In re Reapportionment 2002*, 46 P.3d 1083, 1089 (Colo. 2002) (alternative plan split same number of cities as Adopted Plan). On the other hand, this Court has never required the Commission to maximize the number of whole districts within cities.[15]

Second, these opposers' contention that "whole districts" can be created at all in Colorado Springs is incorrect. A closer look at the reports from Final Plan House 002v2 shows that all of the House Districts that contain a population from Colorado Springs also contain additional population from areas not in Colorado Springs. *See* Barry Affidavit at ¶ 19. Thus, even if constitutionally required, which it is not, opposers have failed to show that it can be done.

VII. GARFIELD COUNTY

The Board of County Commissioners of Garfield County ("Garfield County") objects to the Adopted Plan for the House because it splits a mobile home park in unincorporated Garfield County between House Districts 57 and 61. Although it is unfortunate that this area was split, the Commission is aware of no

---

[14]Section 47(2) by its term also appears to apply only to the situation where a county must be split and directs the Commission to ensure that no cities are split in the process of dividing the county. Of course, the Adopted Plan does not split El Paso County.

[15]It is interesting that CCFR in particular opposes the city splits in Colorado Springs, but does not object to other city splits, such as that of Grand Junction, especially in light of the fact that the Commission, at Commissioner Loevy's behest, created a competitive district, House District 18, which combines Manitou Spring and parts of Colorado Springs.

legal requirement that it be kept together. Garfield County argues that the change would be de minimus and would involve only about 90 registered voters. However, the Colorado Constitution requires the Commission to redistrict based upon population, not registered voters.

The proposed alternate plan submitted by the Garfield County Commissioners would in fact move over 500 people from House District 57 to House District 61. *See* Barry Affidavit at ¶ 20.[16] Under the Adopted Plan, the populations of both House District 57 and 61 are 2.43% over the ideal district size of a house district. Neither district has enough room to add the population necessary to keep the mobile home park whole in one district. Moving the population from House District 57 to House District 61 would require the Commission to redraw most of the house districts on the Western Slope. *Id.*

VIII. DOUGLAS COUNTY

Douglas County makes the novel argument that its equal protection rights under the Federal constitution were violated because 13,339 voters[17] who live in Boulder County are part of Senate District 16, which comprises 140, 609 persons, over 90% of which are from counties other than Boulder, including 80% from Jefferson County.

[16]Under the Adopted Plan, House District 57 has a population of 79,250 and House District 61 has a population of 79,252.

[17]In reality, such persons are not necessarily voters. The ideal district size is based purely on population.

As noted in the Memorandum, the equal protection clause of the 14th Amendment requires state apportionment activities to be based on equal populations between districts so that the state gives equal weight to each person's vote. U.S. Const. Amend. XIV, §1; *Reynolds v. Sims*, 377 U.S. 533, 566-69 (1964); *Lucas v. Forty-Fourth Gen. Assembly of Colo.*, 377 U.S. 713, 734-5 (1964). This requirement is embedded in the five percent deviation requirement of Colo. Const. Art. V, § 46. *See In re Reapportionment 2002*, 45 P.3d at 1247-48. Douglas County does not, and cannot argue that either senate district in Boulder County or Senate District 16 violates section 46. Rather, it argues that because Boulder County is "given influence" over three state senators (by dint of the 13,339 persons from Boulder County being in Senate District 16) while Douglas County only "is …given influence over two," Boulder's influence "may be expected to magnify Boulder County voters' legislative influence in the state Senate relative to Douglas County for at least the next decade."

This argument may be uniquely inventive but it does not describe an equal protection violation. First, without any evidence, Douglas County would have this Court speculate that because 13,339 citizens from Boulder County are situated in a district comprising 140,609 persons, over 90% of whom live in counties other than Boulder, then Boulder will necessarily have more influence over Douglas County in the state Senate. The Court' s decision here cannot be based on such wild

speculation. Moreover, there is simply no authority for the proposition that the equal protection clause is violated when one county is "given influence" over three state senators while another, distant county, is "given influence" over only two. Rather, the equal protection clause guarantees that equal weight is given to each person's vote. Because all counties under the Adopted Plan are within the deviation, there is per se no equal protection violation.

IX. ADDITIONAL ARGUMENTS OF CCFR

CCFR takes issue with the fact that the Adopted Plan was not subject to public hearing. CCFR cannot and does not dispute that the Commission scrupulously followed constitutional requirements for holding public hearing after the creation of the preliminary plan. Significant elements of the Adopted Plan are based on comments made at the public hearings, as described in the Memorandum and this Reply. The Commission thus fully met its constitutional obligations in this regard, and no person was denied the opportunity to participate in the public review phase of the reapportionment process.

CCFR does not argue, and cannot argue that the Commission could not make changes to the preliminary plan following the public hearings. Nothing in the Constitution prevents this. Indeed, such changes are implicitly contemplated-otherwise there would be no need for public hearings. While of course the Commission did not, and could not have made every change suggested by

members of the public, in this case the Commission made critical changes, which improved the constitutionality of the plan, such as the addition of one addition whole district in Jefferson County in the Senate portion of the adopted plan.[18]

CCFR offers no evidence to support its suggestion that non-constitutional factors shaped the Adopted Plan to the detriment of constitutional factors.[19] While it is true that the Commission sought bi-partisan support of the Adopted Plan where possible, and sought to create competitive districts, Chairman Carrera's affidavit makes clear that such concerns were subordinated to constitutional requirements.[20] CCFR offers no facts to rebut this.[21] Moreover, contrary to CCFR's suggestion that the concepts of bi-partisanship and competitiveness were

---

[18]Thus, to the extent the language from Justice Mullarkey's concurrence and dissent from the 1992 Reapportionment cited by CCFR has any legal effect *per se*, it is not applicable here.

[19]CCFR's reliance on the Court's reference to "partisan" factors in the 1992 opinion, *see In re Reapportionment 1992*, 828 P.2d at 199, is misplaced. In that case, the Court was referring to the rejection of an alternative plan by the Commission which allowed the Commission to avoid placing more than one incumbent senator in a senate district. The Court did not find the Commission's action unconstitutional. Moreover, the Court's reference to partisan factors in the 1992 Reapportionment cited its decision in the 1982 Reapportionment, which had to with action taken by the Commission on straight party lines related to attempt to resolve the Court's disapproval of the election sequencing in the plan originally submitted to the Court. *See In re Reapportionment 1982*, 647 P.2d 209, 213 (Colo. 1982). Here, the Adopted Plan was approved in bi-partisan fashion, and the actions CCFR contests here are efforts to have *bi-partisan* support of various plan components.

[20]CCFR sprinkles its brief with select quotes from certain commissioners which it apparently believes bolsters its argument that the Commission ignored constitutional precepts. Of course, none of these quotes binds the commission nor represents the official position of the commission *qua* commission. The Commission could find many quotes to contrary to those cited by CCFR. *See, e.g.*, statement by Commissioner Jones at May 23, 2011 meeting ("Commissioner Jones proposed that staff draft maps in accordance with constitutional requirements). *See* Staff Summary of May 23, 2011 meeting, Exhibit 11 to Memorandum. In the end, it is the Adopted Plan itself the Court must examine and determine its constitutionality.

[21]This is one of several examples of CCFR making unsupported statements of unconstitutional conduct on the part of the Commission. *See, e.g.*, CCFR brief at p. 18 (Commission forced to split far more counties than necessary); *Id*. at p. 22 (Commission decided to sacrifice county integrity for lower constitutional criteria); *Id*. at p. 24 (Commission rejected alternative map for non-constitutional reasons for sake of achieving political and lesser constitutional goals).

first raised on September 19, these concepts were discussed throughout the public hearings. *See* Exhibit 11 to Memorandum, particularly, May 12, 2011 letter from Commissioner Witwer, attached hereto as Exhibit F ("We always talk about minimizing partisanship in this process—maybe we can actually do it this time."); Summary of May June 6, 2011 meeting (Commissioner Nicolais agrees that introducing maps anonymously to avoid partisan issues is valuable); Summary of June 20, 2011 meeting (Commissioner Loevy discussed district competitiveness in Colorado); June 27, 2011 meeting (Commissioner Loevy discussed competitiveness in El Paso County portion of Senate Plan); *See* generally Staff Summary of July 18 and 25 meetings. *See also* Barry Affidavit at ¶ 21.

CCFR advocates that the Adopted Plan ought to have been created using "a simple mathematical tally," based on the census, because the Colorado Constitution requires the maximum number of single-county districts. *See* CCFR brief at pp. 4, 8-10. CCFR goes further contends that if the "proposed map falls short of that number, it is constitutionally infirm."[22] *See* CCFR brief at p. 10. CCFR's position is unsupported in law and fact.

First, this theory of "single county districts" or SCDs appears nowhere in the constitution or in any prior opinions from this court. Although the Joint Affidavit

[22]A corollary to t*his* argument is that the 5% deviation requirement of section 46 requires the commission to create the maximum number of whole districts in each county. This argument simply has no basis in the text of section 46 or in this Court's decisions, and would only serve to limit the Commission's ability to craft a plan that takes into account all of the complexities inherent in the process.

of Stephen C. Tool and Mario D. Nicolais asserts that the Adopted Plan only created 43 House SCDs and 24 Senate SCDs while it was mathematically possible to draw 47 House SCDs and 26 Senate SCDs, nowhere does CCFR identify where the Commission could have created these additional SCDs. The Affidavit only identifies the counties that should have received districts contained wholly within that county.

CCFR states in footnote 4, after discussing enclaves, that "These technical issues are rare, and straightforward to address in the apportionment process. Except for these odd cases, single-county districts and wholly contained districts are synonymous."

Since CCFR has failed to identity any county in which the Commission should have created a SCD and did not and CCFR concedes that except for "odd case" SCDs are synonymous with wholly contained districts, the Commission is unable to respond to the theory and is unsure how this court might, even if the court felt compelled to, direct the Commission to follow the theory.

Contrary to CCFR's argument, the Commission does not merely run the counties through a mathematical equation to produce the proposed map. Indeed, this Court has directed that the Commission must not only concern itself with the number of districts within each county, but rather must apply federal and state criteria, in the following order of priority, to develop the map:

> (1) the Fourteenth Amendment Equal Protection Clause and the Fifteenth Amendment; (2) section 2 of the Voting Rights Act; (3) article V, section 46 (equality of population of districts in each house); (4) article V, section 47(2)(districts not to cross county lines except to meet section 46 requirements and the number of cities and towns contained in more than one district minimized); (5) article V, section 47(1)(each district to be as compact as possible and to consist of contiguous whole general election precincts); and (6) article V, section 47(3) (preservation of communities of interest within a district).

In re Reapportionment 2002, 45 P.3d 1237, 1247 (Colo. 2002). Although the federal considerations trump the state criteria, the Adopted Plan must also be: (1) "sufficiently attentive to county boundaries to meet the requirement of section 47 (2)," and where counties are split, must be (2) accompanied by "an adequate factual showing that less drastic alternatives could not have satisfied the equal population requirement of the Colorado Constitution," *In re Reapportionment 2002*, 45 P.3d at 1249. As explained above, the Commission met that showing and the Adopted Plan is Constitutionally sound.

Moreover, this Court has approved prior reapportionment maps, despite certain counties not receiving its maximum number of whole districts. *In re Reapportionment 2002*, 45 P.3d at 1249 (House portion of the plan did not present "issues of constitutional compliance" despite the fact that three counties did not receive their maximum number of whole districts).

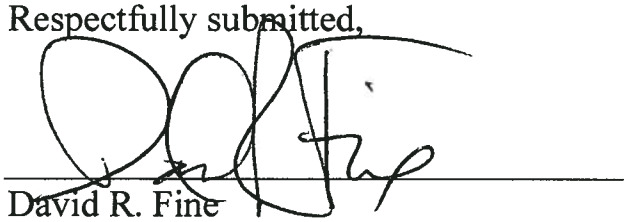
This Court should reject CCFR's "simple mathematical" approach and adhere to the soundly reasoned precedent that has instructed the Commission since its inception.

X. CONCLUSION

For the foregoing reasons and the reasons set forth in its Memorandum, the Commission respectfully requests that the Court approve the Adopted Plan.

Dated: October 31, 2011

Respectfully submitted,



David R. Fine
Richard C. Kaufman
Jennette C. Roberts
Joseph G. Martinez

McKenna Long & Aldridge LLP

Jeremiah B. Barry
Kate Meyer
Troy C. Bratton

Colorado Reapportionment Commission

Attorneys for the Colorado
Reapportionment Commission

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of October 2011, a true and correct copy of the foregoing **REPLY TO STATEMENTS OF OPPOSITION** was filed with the Colorado Supreme Court by hand delivery and served via U.S. Mail to the following:

Jason R. Dunn
Michael D. Hoke
Brownstein Hyatt Farber Schreck, LLP
410 Seventeenth Street, Suite 2200
Denver, CO 80202-4432

Bruce T. Barker, Esq.
Weld County Attorney
915 Tenth Street
P.O. Box 758
Greeley, CO 80632

Olivia Mendoza
Colorado Latino Forum
309 West 1st Avenue
Denver, CO 80223

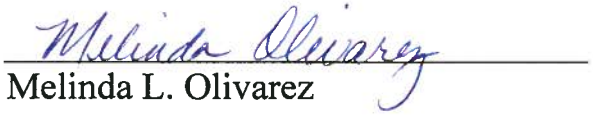
William E. Zimsky
Abadie & Schill, PC
1099 Main Avenue, Suite 315
Durango, CO 81301

Ellen G. Wakeman
Writer Mott
Assistant County Attorneys
Jefferson County Attorney's Office
100 Jefferson County Parkway, #5500
Golden, CO 80419-5500

Kendra L. Carberry
Christine C. Stretesky
Hayes, Phillips, Hoffmann & Carberry, P.C.
1530 Sixteenth St., Ste. 200
Denver, CO 80202

Robert A. McGuire
Robert A. McGuire, Attorney at Law, LLC
1624 Market Street, Suite 202
Denver, CO 80202

Andrew Gorgey
Garfield County Attorney
108 8th Street, Suite 219
Glenwood Springs, CO 81601



Melinda L. Olivarez

SUPREME COURT, STATE OF COLORADO 101 West Colfax Avenue, Suite 800 Denver, Colorado 80202	
Original Proceeding Pursuant to the Colorado Rules for Reapportionment Proceedings	▲ **COURT USE ONLY** ▲
IN RE REAPPORTIONMENT OF THE COLORADO GENERAL ASSEMBLY	Case No. 11SA282
Attorneys for Colorado Reapportionment Commission: McKenna Long & Aldridge LLP David R. Fine, #16852 Richard C. Kaufman, #8343 Jennette C. Roberts, #35502 Joseph G. Martinez, #38956 1400 Wewatta St, Suite 700 Denver, CO 80202-5556 Telephone: (303) 634-4000 Facsimile: (303) 634-4400 Colorado Reapportionment Commission Jeremiah B. Barry, #10400 Kate Meyer, #38059 Troy C. Bratton, #39807 Colorado Reapportionment Commission 1313 Sherman Street, Room 122 Denver, Colorado 80203 Telephone: (303) 866-3950 Facsimile: (303) 866-3945	
AFFIDAVIT OF JEREMIAH B. BARRY	

Jeremiah B. Barry, having been duly sworn, states as follows:

1. I am the Staff Director of the Colorado Reapportionment Commission. I make the following averments of my own personal knowledge.

2. The Commission held an organizational meeting on May 12, 2011. At the next meeting of the Commission on May 16, 2011, I discussed with the Commission the Legal Requirements for Drawing Districts. As part of that discussion, the Commission discussed the language of Article V, Section 47 (2) of the Colorado Constitution ("Section 47 (2)") and this Court's opinion In re Reapportionment of the Colorado General Assembly, 45 P3d 1237 (Colo. 2002) ("In re Reapportionment 2002"). In re Reapportionment 2002 was discussed by the Commission numerous times during the course of its deliberations. At the meeting on May 16, 2011, Exhibit A hereto was distributed to all Commission members. Exhibit A contains the ideal district size for House and Senate Districts based upon the 2010 federal census. For each county whose population exceeds the ideal district size, Exhibit A also divides the county's population by the ideal district size to determine the number of districts that could be drawn within each county.

3. At its meetings on May 23 and May 31, 2011, the Commission discussed ways to divide the state into regions to facilitate the receipt of public testimony prior to drawing the Preliminary Plan. The Commission's schedule was

to receive public testimony on a region of the state on a Monday afternoon. Later that week, Commissioners would submit proposed plans for that region that would be distributed to all commissioners. The following Monday morning, the Commission would review the proposed plans for that region and hearing testimony in the afternoon on the next region. At times, the Commission considered counties outside of the region. At the meeting on June 6, 2011, the Commission considered plans for Region One that consisted of the San Luis Valley and Pueblo, Huerfano, and Las Animas Counties. At that meeting, the Commission approved a partial plan that included Senate District 35 that also included Crowley, Kiowa, Otero, Bent, Prowers, and Baca Counties. At other times, the Commission decided against approving partial plan if it would require going into counties from which the Commission had not heard public testimony. At the meeting of June 13, 2011, the Commission voted to defer adopting a House plan for the northeastern portion of the state because it may have required going into Weld County and the Commission wanted to hear from the residents of Weld County first.

4. As shown in Exhibit B attached hereto, the Preliminary Plan created only two whole districts within Jefferson County. Senate District 19 crossed into Adams County to keep the city of Westminster whole in one senate district. At the public hearings, the Commission heard considerable testimony from the residents

of Jefferson County who asked to have three whole districts drawn within Jefferson County.

5. The excess population of the City and County of Denver after drawing four senate districts wholly within Denver is approximately 23,500. It is 22,660 in the Adopted Plan and 23,938 in Final Plan Senate 001v2. As Denver is contiguous with only Adams, Arapahoe, and Jefferson Counties, that population must be joined with one of those other counties. As the population of Adams County divided by the ideal senate district size is 3.07, it is possible to draw three whole senate districts within Adams County. The population of Arapahoe County, adjusted for the enclaves within Denver, divided by the ideal senate district size is 3.93. As is shown by the Arapahoe County map for Final Senate Plan 001v2, attached hereto as Exhibit C, it is possible to draw three senate districts wholly within Arapahoe County. Portions of the Denver Tech Center are in both Denver and Arapahoe Counties. The population of Jefferson County divided by the ideal senate district size is 3.72. The excess population of Jefferson County after drawing three whole senate districts within Jefferson County is approximately 110,000. It is 112,741 in the Adopted Plan and 102,702 in Final Plan Senate 001v2. Even taking the highest number from each county would total 136,679, or more than 7,000 people short of the ideal senate district size. Therefore, any senate district that joined the excess population of Denver with the excess population of

Jefferson County would have to include population from at least one other county. This is shown by Senate District 16 in the Jefferson County map in Final Senate Plan 001v2, attached hereto as Exhibit D. I do not believe that it is mathematically possible to draw senate district including the excess portions of Denver and Jefferson Counties without adding population from another county.

6. Again, the excess population of Jefferson County after drawing three districts wholly within Jefferson County is 112,741 on the high side. The populations of Clear Creek and Gilpin Counties are 9,088 and 5,441, respectively. Adding all three together is 127,270 or over 16,000 people under the ideal district size. It is necessary to add population from another county to complete such a district.

7. Exhibit E is two maps of the current senate districts. The town of Superior is in Senate District 16. Senate District 16 includes the mountainous counties of Clear Creek, Gilpin, and Summit as well as portions of Jefferson County.

8. The Reapportionment Commission Staff reviewed all of the audio from the hearing on August 29, 2011, in Greeley. No witness testified concerning the fact that the preliminary plan did not create three house districts wholly within Weld County.

9. Exhibit F contains three maps of Final Plan House 002v2. The statewide map shows that House District 29 includes Washington County. The Western Adams County map shows that House District 29 extends into Adams County at the border between Adams County and Denver at Colfax Avenue and Yosemite Street. The Western Arapahoe County map also shows that House District 29 extends into the city of Aurora and other suburban areas of Arapahoe County.

10. At the commission meeting on May 16, 2011, the State Demographer testified before the Commission on the changing demographics in the state. Attached as Exhibit G are pages from the State Demographer's website that indicate the growth of the Hispanic population in Aurora. This shows that the Hispanic population grew by 38,499 people or 70.3% between 2000 and 2010. The 38,499 people represented over 79% of the growth of the population of Aurora.

11. There are currently four senate districts and eight house districts that include population from the City of Aurora. None of the current senators or representatives whose districts include population from Aurora are of Hispanic descent. One representative from Aurora is an African American.

12. At the direction of the Commission, counsel for the Commission was retained Dr. Lisa Handley to perform preliminary studies as to whether there was

racial bloc voting in Aurora. Dr. Handley asked the Commission Staff to obtain information at the precinct on elections in Aurora that involved a race between an Anglo and a Hispanic candidate. As Commission Staff only had geographic information for the precincts as they existed for the 2008 and 2010 elections, Commission Staff was unable to locate the information requested by Dr. Handley.

13. At the Commission meeting on July 18, 2011, Commissioner Nicolais offered plan H6001v2/H7001v2. He discussed his intent in drawing a majority Hispanic district that crossed between Adams County and Arapahoe County. Copies of a map from plan H6001v2/H7001v2 are attached as Exhibit H. Plan H6001v2/H7001v2 was adopted by the Commission at the meeting on July 18, 2011, and was incorporated into the Preliminary Plan.

14. Exhibit I is a map from the Adopted Plan. It shows that House District 56 in the Adopted Plan is similar to House District 30 in Plan H6001v2/H7001v2. Both districts include portions of Adams County to the south and east of Denver International and portions of Arapahoe County in Aurora just south of Colfax Avenue.

15. At the Commission meeting on September 19, 2011, the Commission considered four statewide final house plans. Three of the four plans for House District 65 contained a small county that was in two house districts. In the Adopted Plan Elbert County was in House District 65 and House District 64. As is

shown by the maps attached as Exhibit J, in Final Plan House 002v3, Morgan County was partially in House District 49 and House District 65. In Final Plan House 001v2, Kit Carson County is partially in House District 64 and partially in House District 65. Also, in Final House Plan 001v2, both House District 65 and House District 49 extend into Weld County. The fourth plan, Final Plan House 002v2 did not divide a small county between two house districts, but was forced to place Washington County with urban areas as shown in Paragraph 8 of this Affidavit.

16. The attached Exhibit K is another page from the State Demographer's website indicating that Hispanics comprise 41.6% of the population of Las Animas County.

17. I attended the Public Hearing in Trinidad on August 6, 2011. The one witness at the hearing testified that Las Animas County had more in common with counties to the east than to Pueblo County.

18. Exhibit L is a copy of the Summary from the Public Hearing in Montrose on August 12, 2011. It indicates several persons expressed a preference to have Telluride in House District 59. Exhibit M is a copy of the Summary from the Public Hearing in Durango on August 13, 2011. Several people testified against putting Telluride in House District 59. Putting Telluride in House District 59 would require dividing San Miguel County between House Districts 58 and 59.

As San Miguel runs from Telluride to the Utah border, if it were kept whole there is insufficient population south of San Miguel to form two house districts.

19. Attached as Exhibit N are reports from Final Plan Senate 001v2 and Final Plan House 002v2 on which CCFR relies. The first page shows that the population of Colorado Springs is in four senate districts and indicates the population of Colorado Springs residents in that district. The next page is a summary of the total population for senate districts. The next two pages show that population from Colorado Springs is in six house districts and indicates the number of Colorado Springs residents in each district. The third page is a summary of the total populations of each house district. A comparison between the total population and the population of residents of Colorado Springs reveals that in every district there is more total population than the population from Colorado Springs. Thus, there are no senate districts and no house districts that contain only residents from Colorado Springs.

20. Attached as Exhibit O is a map showing the census blocks with the population for each block in the area that the Garfield County Commissioners propose moving into House District 61. The area contains 540 people. As the population of House District 61 under the Adopted Plan is already at 2.43% over the ideal house district size, moving that population into House District 61 would

require the Commission to redraw most of the house districts on the Western Slope.

21. Throughout the Commission's work, Commissioners discussed a desire for a bipartisan plan and a hope for an eleven to zero vote on the final plan. Additionally, the Commission, especially the Chair and Commission Loevy, expressed a desire to increase the number of competitive districts from which a candidate from either of the major political parties might win. During the public hearings throughout the state, many Commissioners, especially Commissions Nicolais and Witwer, asked questions of witnesses about whether they the witness thought competitive districts were good and how the witness might define a district as competitive.

22. As an alternative to the regions followed by the Commission, Commissioner Nicolais proposed a "footprint" approach that grouped counties by their population in an attempt to construct groups of counties whose total population when divided by the ideal district size would be close to a whole number. In this manner, the Commission could draw districts within these regions that, if redrawn, would not have a ripple effect throughout the rest of the state. The proposed footprints as suggested by Commissioner Nicolais are contained in Exhibit P. It does not appear that the footprints developed by Commission Nicolais would work in the manner he intended. In the Senate, the population of

proposed "Adams/Denver Footprint" divided by the ideal senate district size is 7.25. Under his theory, you should be able to draw seven districts within this footprint. However, the numbers do not work mathematically and indeed, even the Final Plan Senate 001v2 preferred by CCFR does not draw seven districts between Denver and Adams Counties. The excess population over the whole number of senate districts is 0.25. Dividing this number by the number of districts to be drawn is 3.5. Thus, the average district in this region would have to be 3.5% over the ideal district size and the Commission would be unable or at least hard pressed to keep the remaining districts within the 5% deviation. Similarly, in the house footprints, the population of the "West Slope Footprint" divided by the ideal house district size is 8.28. The excess divided by the 8 districts again shows that the average district within the footprint would have to be 3.5% over the ideal district size. Such an approach would limit the discretion of the Commission. Indeed, neither Final Plan Senate 001v2 nor Final Plan 002v2 attached as Exhibits to CCFR's objection follow the footprints suggested by Commissioner Nicolais. Also, as shown by paragraph 2 above, the regions by the Commission were drawn to facilitate public testimony, not bind the Commission to drawing districts within a region. Under the footprint approach, some counties are necessarily in different footprint regions for the senate and house regions. For example, Fremont and Park Counties are in the "Western Slope Footprint" in the house regions, but Fremont is

in the "South Front Range Footprint and Park is in the "Jeffco/Foothills Footprint" in the senate regions. It is unclear at which Commission meeting or multiple meetings the residents of these counties would have to appear.

Jeremiah B. Barry

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

Subscribed and sworn to before me this 31st day of October, 2011, by Jeremiah B. Barry

Witness my hand and official seal.

My Commission Expires: July 14, 2015.

[SEAL]

Notary Public

Exhibits to affidavit:

A. Counties with Populations in Excess of the Ideal District Size
B. Preliminary Plan Map of Jefferson County
C. Final Plan Senate 001v2 Map of Arapahoe County
D. Final Plan Senate 001v2 Map of Jefferson County
E. Current Senate Districts Statewide and Broomfield/Boulder Zoom
F. Final Plan House 002v2 - Statewide, Western Adams County, Western Arapahoe County
G. State Demographer's website Growth of Hispanic population in Aurora
H. H6001v2/H7001v2 map showing House Regions 6 & 7 Plans
I. Adopted Plan Western Adams County
J. Adopted Plan Statewide, Final Plan House 002v3 Statewide, Final Plan House 001v2 Statewide
K. State Demographer's website Hispanic population of Las Animas County
L. Summary of Public Hearing in Trinidad on August 12, 2011.
M. Summary of Public Hearing in Montrose on August 13, 2011.
N. Final Senate Plan 001v2 City Splits Report and Population Summary and Final House Plan 002v2 City Splits Report and Population Summary
O. Proposed Garfield County Split
P. Senate and House Population Footprints

Counties With Populations in Excess of the Ideal District Size

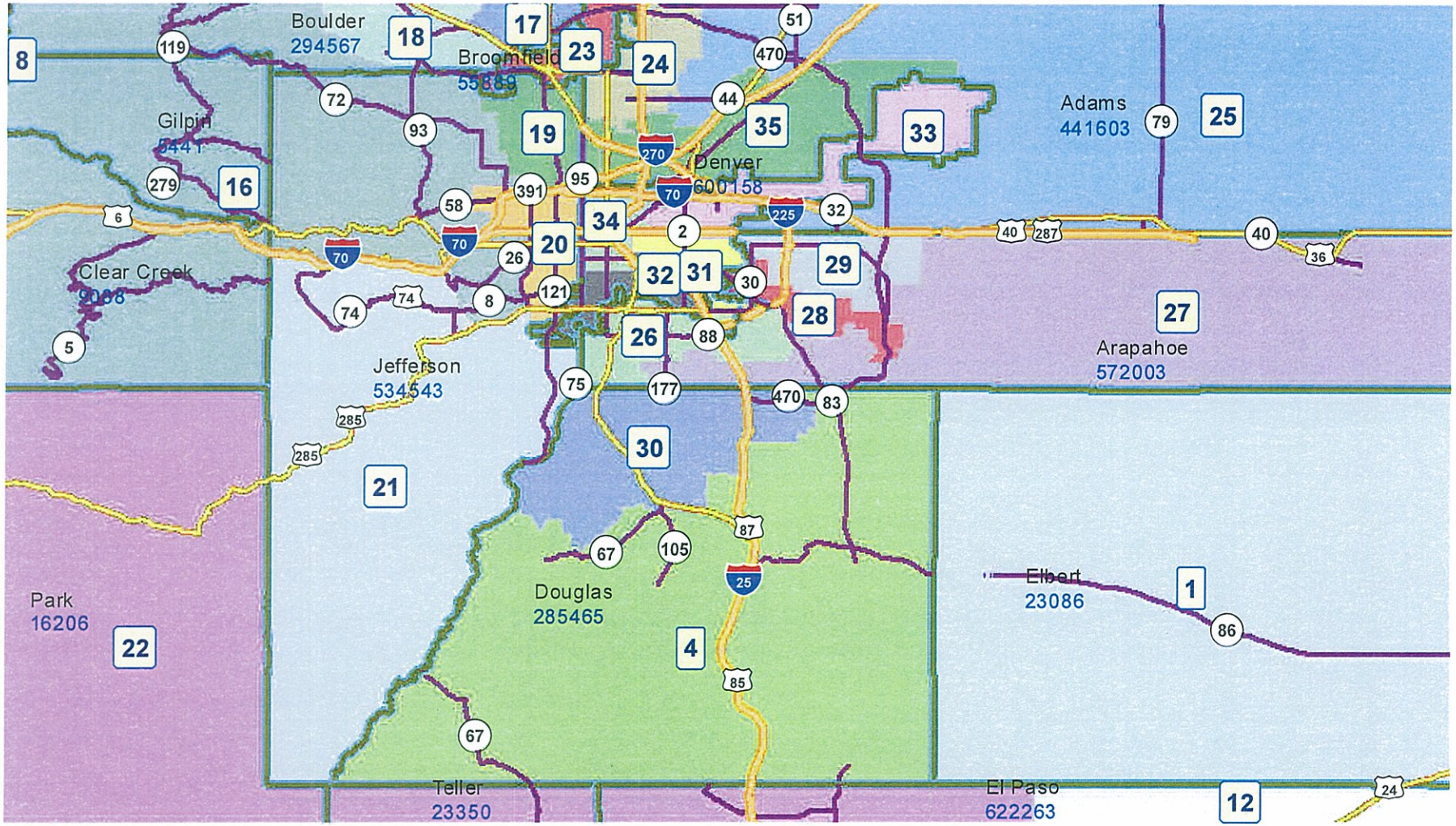
County	2010 Population	Divided by Ideal Senate District Size	Divided by Ideal House District Size
State	5,029,196	143,691	77,372
Adams	441,603	3.07	5.71
Alamosa	15,445		
Arapahoe	572,003	3.98	7.39
Archuleta	12,084		
Baca	3,788		
Bent	6,499		
Boulder	294,567	2.05	3.81
Broomfield	55,889		
Chaffee	17,809		
Cheyenne	1,836		
Clear Creek	9,088		
Conejos	8,256		
Costilla	3,524		
Crowley	5,823		
Custer	4,255		
Delta	30,952		
Denver	600,158	4.18	7.76
Dolores	2,064		
Douglas	285,465	1.99	3.69
Eagle	52,197		
Elbert	23,086		
El Paso	622,263	4.33	8.04
Fremont	46,824		
Garfield	56,389		
Gilpin	5,441		
Grand	14,843		
Gunnison	15,324		
Hinsdale	843		
Huerfano	6,711		
Jackson	1,394		
Jefferson	534,543	3.72	6.91
Kiowa	1,398		
Kit Carson	8,270		
Lake	7,310		
La Plata	51,334		
Larimer	299,630	2.09	3.87
Las Animas	15,507		
Lincoln	5,467		
Logan	22,709		
Mesa	146,723	1.02	1.89
Mineral	712		
Moffat	13,795		
Montezuma	25,535		
Montrose	41,276		
Morgan	28,159		
Otero	18,831		
Ouray	4,436		
Park	16,206		
Phillips	4,442		

EXHIBIT
A
tabbies

Counties With Populations in Excess of the Ideal District Size

County	2010 Population	Divided by Ideal Senate District Size	Divided by Ideal House District Size
Pitkin	17,148		
Prowers	12,551		
Pueblo	159,063	1.11	2.06
Rio Blanco	6,666		
Rio Grande	11,982		
Routt	23,509		
Saguache	6,108		
San Juan	699		
San Miguel	7,359		
Sedgwick	2,379		
Summit	27,994		
Teller	23,350		
Washington	4,814		
Weld	252,825	1.76	3.27
Yuma	10,043		

Statewide Preliminary Adopted Senate Plan
Jefferson County Zoom

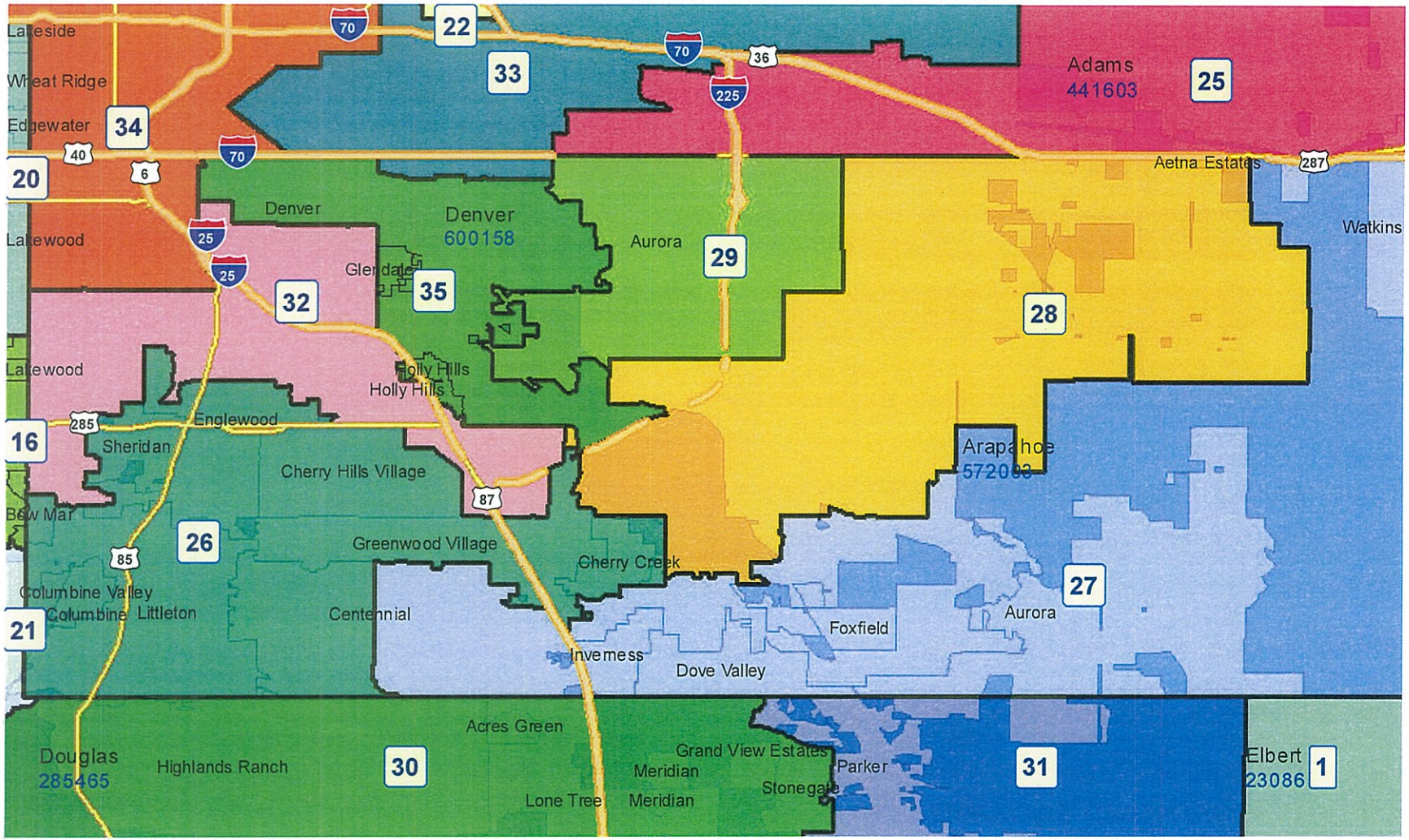


2011 Colorado Reapportionment Commission
1313 Sherman Street
Room 122
Denver, Colorado 80203

EXHIBIT
B

Map prepared by Reapportionment Commission Staff, July 19, 2011.

Final Plan Senate 001v2
Western Arapahoe County



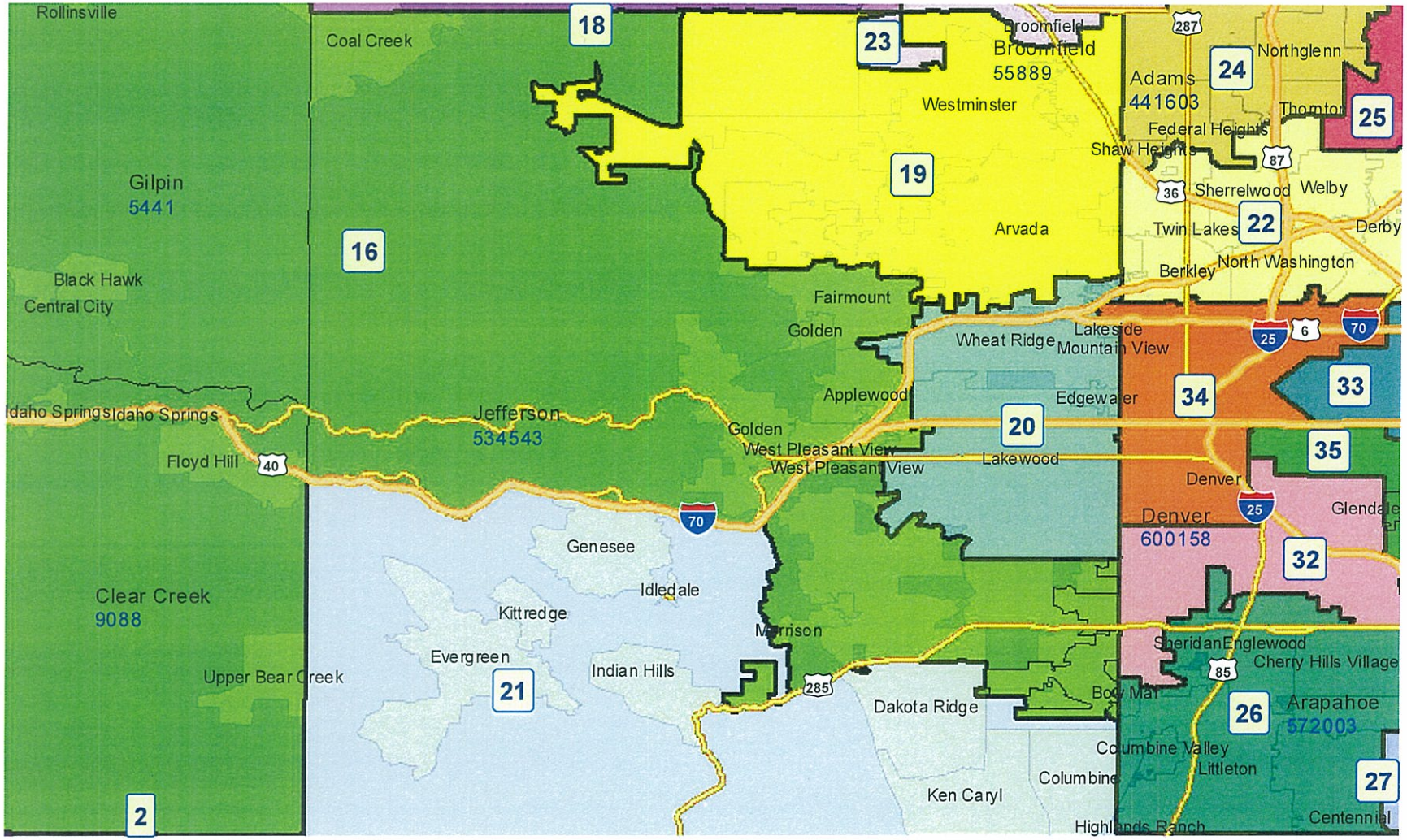
2011 Colorado Reapportionment Commission
1313 Sherman Street
Room 122
Denver, Colorado 80203

N
W E
S

EXHIBIT
C

Map prepared by Reapportionment Commission Staff, September 15, 2011.

Final Plan Senate 001v2
Jefferson County



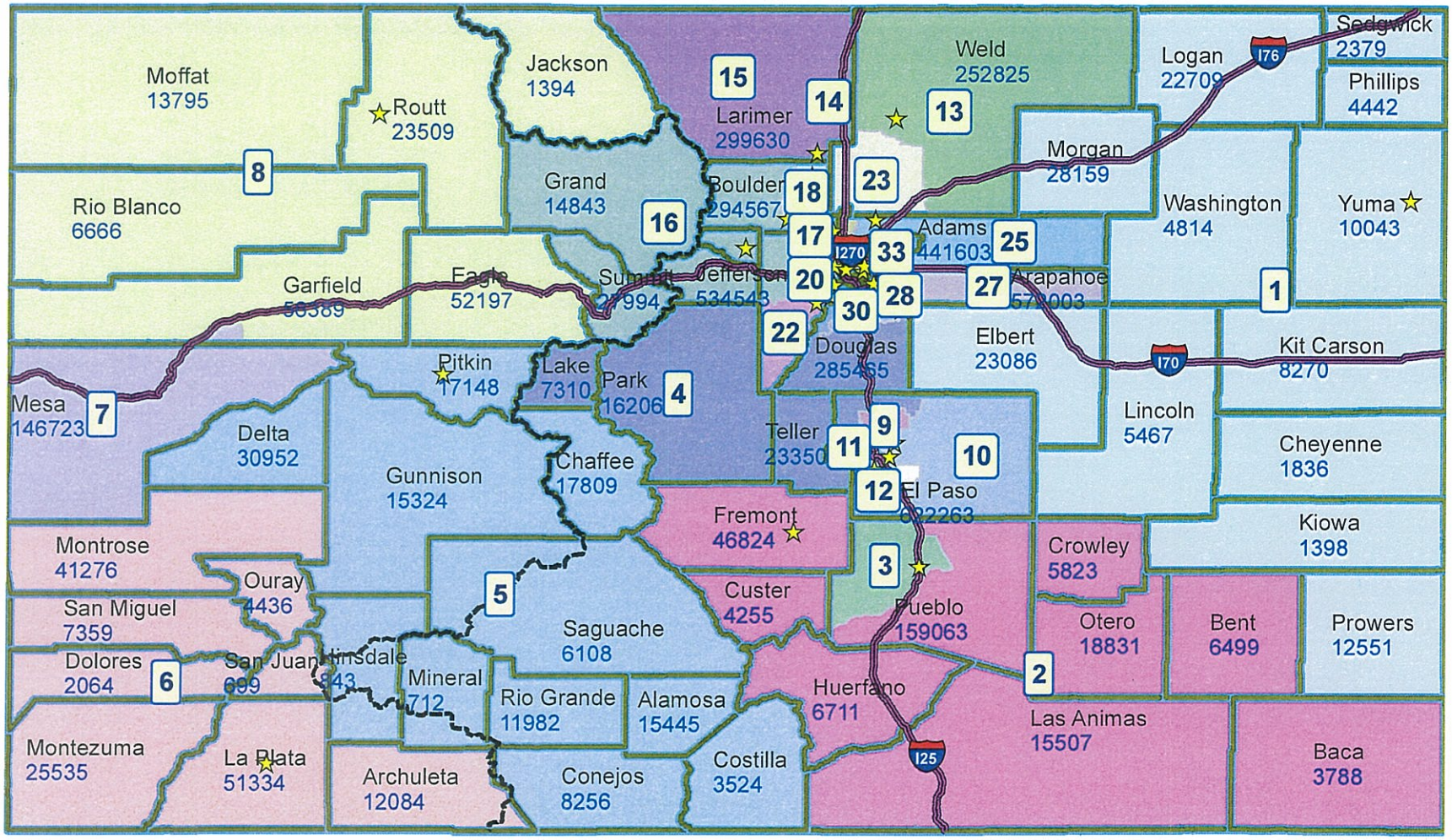
2011 Colorado Reapportionment Commission
1313 Sherman Street
Room 122
Denver, Colorado 80203

N
W E
S

EXHIBIT
tabbies
D

Map prepared by Reapportionment Commission Staff, September 15, 2011.

2001 Approved Senate Districts



2011 Colorado Reapportionment Commission
1313 Sherman Street
Room 122
Denver, Colorado 80203

N
W E
S

EXHIBIT
tabbies
E

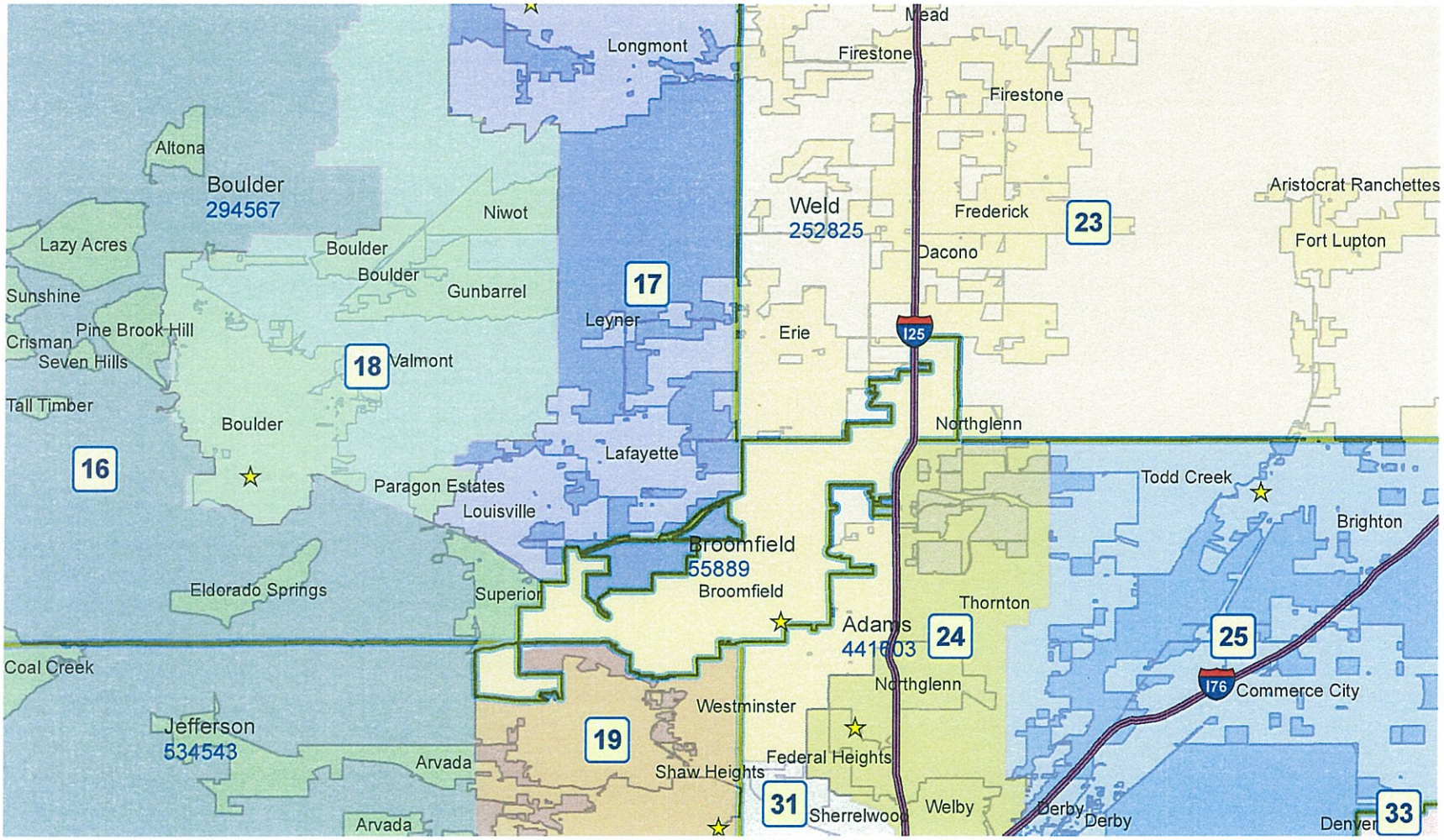
Legend

----- Continental Divide

☆ Incumbents

Map prepared by Reapportionment Commission Staff, June 9, 2011.

2001 Approved Senate Districts
Broomfield/Boulder Zoom



2011 Colorado Reapportionment Commission
1313 Sherman Street
Room 122
Denver, Colorado 80203

N
W E
S

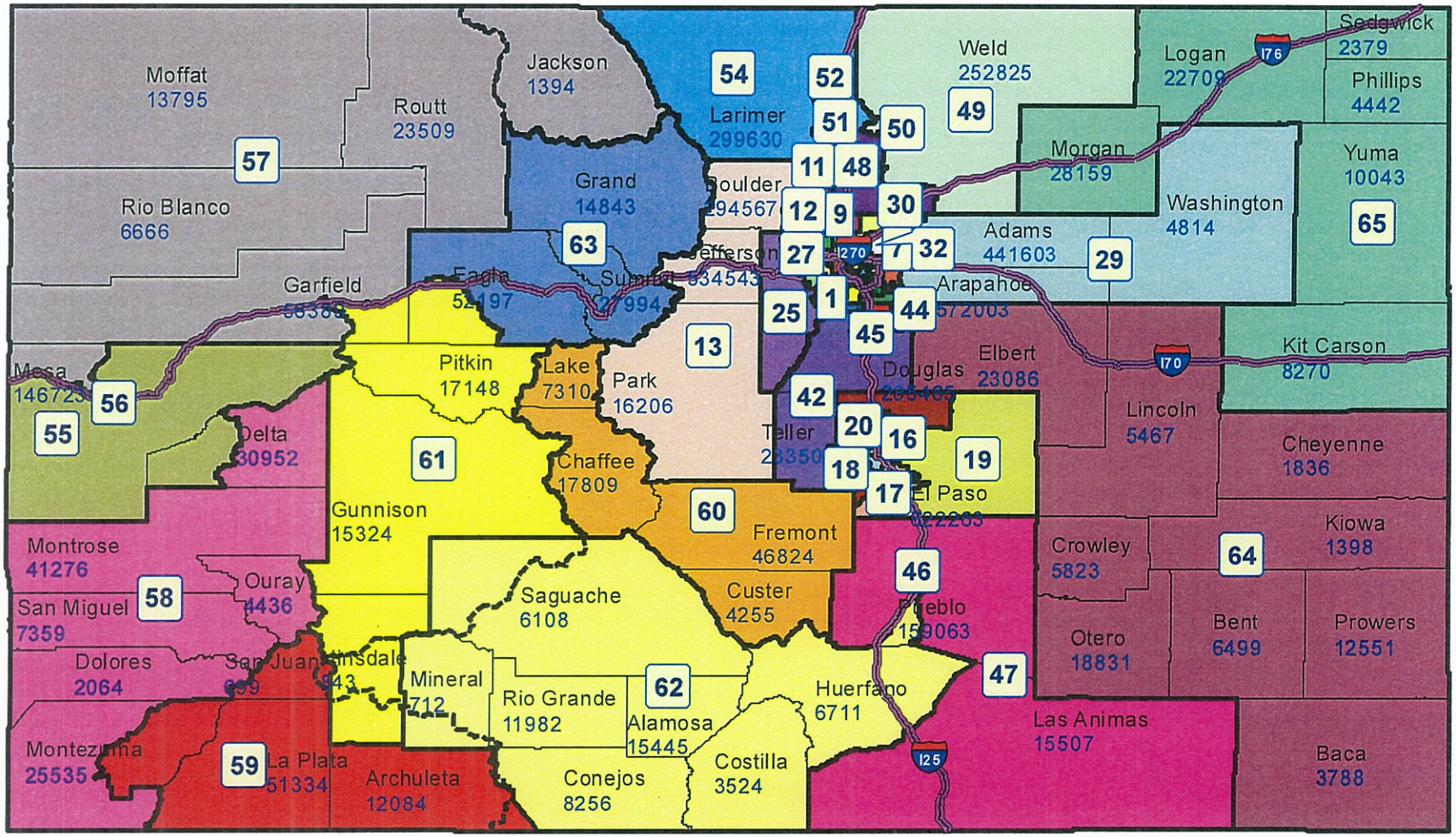
Legend

----- Continental Divide

☆ Incumbents

Map prepared by Reapportionment Commission Staff, June 9, 2011.

Final Plan House 002v2

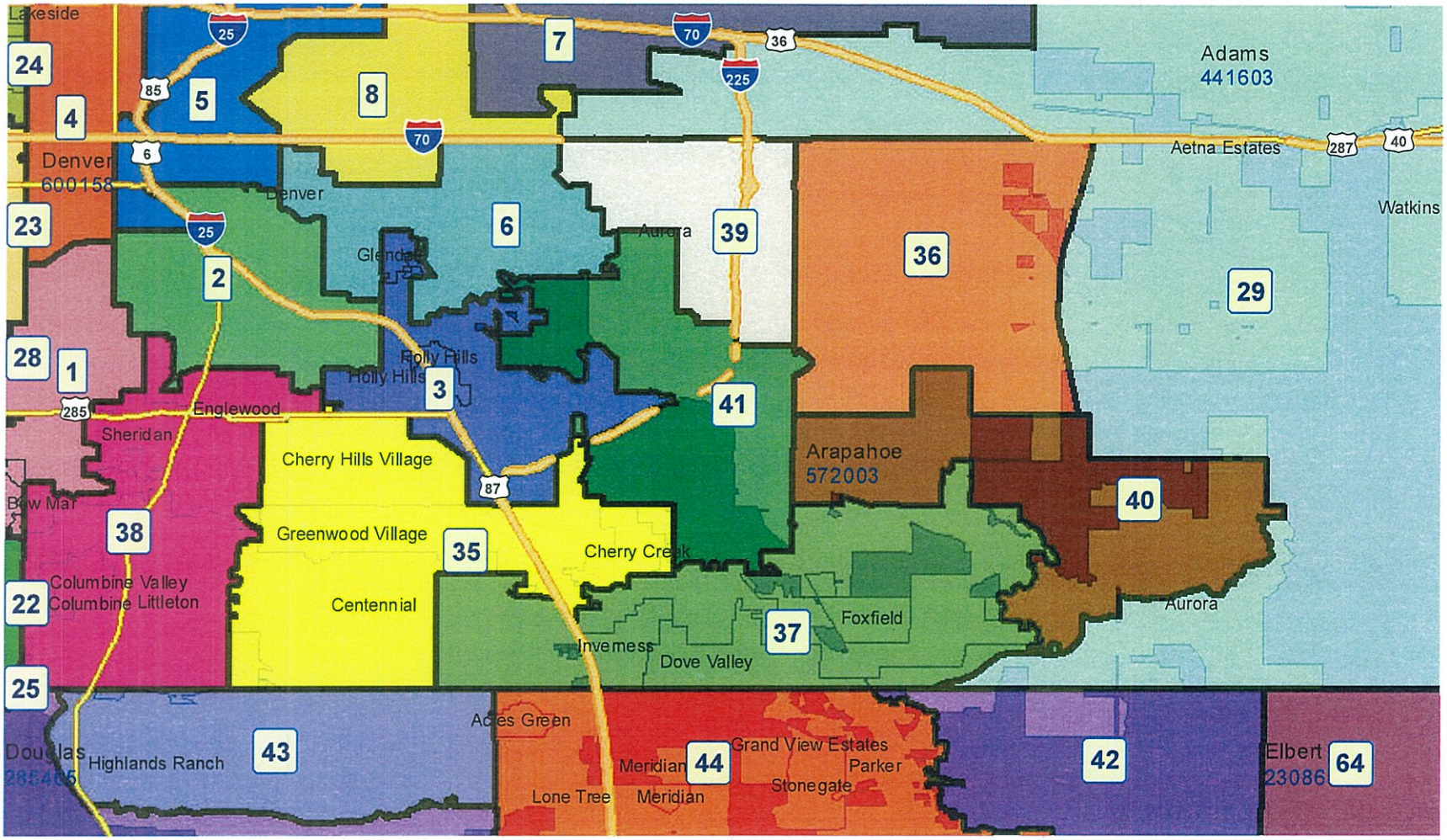


2011 Colorado Reapportionment Commission
1313 Sherman Street
Room 122
Denver, Colorado 80203

EXHIBIT
F

Map prepared by Reapportionment Commission Staff, September 15, 2011.

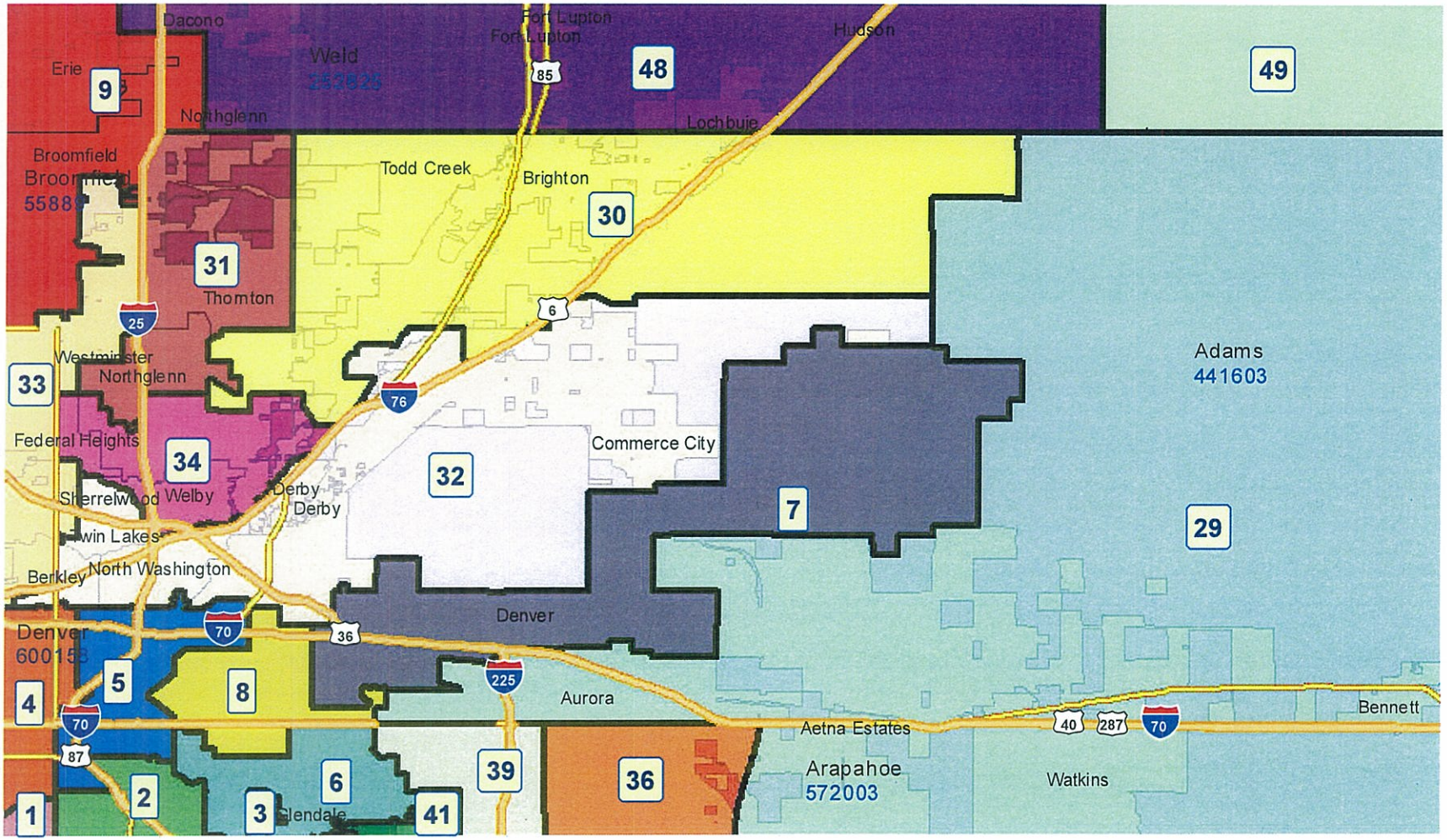
Final Plan House 002v2
Western Arapahoe County



2011 Colorado Reapportionment Commission
1313 Sherman Street
Room 122
Denver, Colorado 80203

Map prepared by Reapportionment Commission Staff, September 15, 2011.

Final Plan House 002v2
Western Adams County



2011 Colorado Reapportionment Commission
1313 Sherman Street
Room 122
Denver, Colorado 80203

Map prepared by Reapportionment Commission Staff, September 15, 2011.

2010 Hispanic or Latino (of any race) Population and Percent Change
Colorado Municipalities - Total Population
"-" refers to geographies which did not exist during the 2000 Census

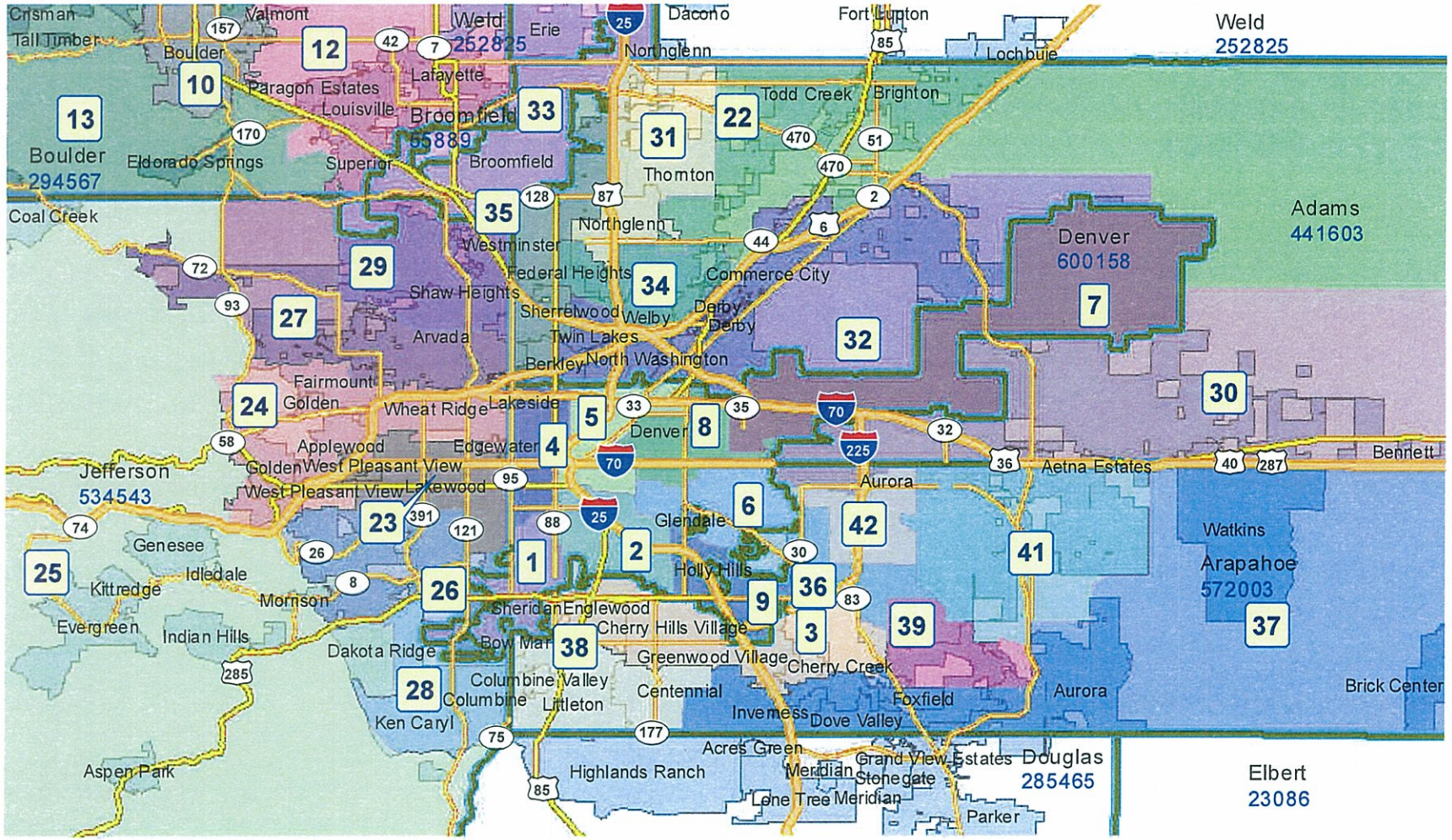
Municipality	Hispanic or Latino		Change, 2000 to 2010	
	2000 Population	2010 Population	Number	Percent
Acres Green CDP	173	369	196	113.3%
Aetna Estates CDP	-	261	-	-
Aguilar town	276	248	-28	-10.1%
Air Force Academy CDP	654	749	95	14.5%
Akron town	201	163	-38	-18.9%
Alamosa city	3,725	4,674	949	25.5%
Alamosa East CDP	831	789	-42	-5.1%
Allenspark CDP	8	14	6	75.0%
Alma town	6	19	13	216.7%
Alpine CDP	-	20	-	-
Altona CDP	-	26	-	-
Amherst CDP	-	13	-	-
Antonito town	788	665	-123	-15.6%
Applewood CDP	312	398	86	27.6%
Arboles CDP	58	62	4	6.9%
Aristocrat Ranchettes CDP	360	621	261	72.5%
Arriba town	14	12	-2	-14.3%
Arvada city	10,031	14,536	4,505	44.9%
Aspen city	363	499	136	37.5%
Aspen Park CDP	34	27	-7	-20.6%
Atwood CDP	18	11	-7	-38.9%
Ault town	433	455	22	5.1%
Aurora city	54,764	93,263	38,499	70.3%
Avon town	2,222	3,158	936	42.1%
Avondale CDP	483	403	-80	-16.6%
Bark Ranch CDP	-	1	-	-
Basalt town	315	783	468	148.6%
Battlement Mesa CDP	247	792	545	220.6%
Bayfield town	162	309	147	90.7%
Bennett town	90	246	156	173.3%
Berkley CDP	4,643	6,240	1,597	34.4%
Berthoud town	390	439	49	12.6%
Bethune town	70	87	17	24.3%
Beulah Valley CDP	70	40	-30	-42.9%
Black Forest CDP	438	646	208	47.5%
Black Hawk city	12	11	-1	-8.3%
Blanca town	262	234	-28	-10.7%
Blende CDP	-	403	-	-
Blue River town	14	24	10	71.4%
Blue Sky CDP	-	5	-	-
Bonanza town	0	0	0	-
Bonanza Mountain Estates CDP	-	1	-	-
Boone town	102	93	-9	-8.8%

EXHIBIT
tabbies
G

2010 Population and Percent Change
Colorado Places - Total Population
"-" refers to geographies which did not exist during the 2000 census

Place	Population		Change, 2000 to 2010	
	2000	2010	Number	Percent
Acres Green CDP	3,205	3,007	-198	-6.18%
Aetna Estates CDP	-	834	-	-
Aguilar town	593	538	-55	-9.27%
Air Force Academy CDP	7,526	6,680	-846	-11.24%
Akron town	1,711	1,702	-9	-0.53%
Alamosa city	7,960	8,780	820	10.30%
Alamosa East CDP	1,528	1,458	-70	-4.58%
Allenspark CDP	496	528	32	6.45%
Alma town	179	270	91	50.84%
Alpine CDP	-	174	-	-
Altona CDP	-	501	-	-
Amherst CDP	-	58	-	-
Antonito town	873	781	-92	-10.54%
Applewood CDP	7,123	7,160	37	0.52%
Arboles CDP	232	280	48	20.69%
Aristocrat Ranchettes CDP	1,254	1,344	90	7.18%
Arriba town	244	193	-51	-20.90%
Arvada city	102,153	106,433	4,280	4.19%
Aspen city	5,914	6,658	744	12.58%
Aspen Park CDP	874	882	8	0.92%
Atwood CDP	195	133	-62	-31.79%
Ault town	1,432	1,519	87	6.08%
Aurora city	276,393	325,078	48,685	17.61%
Avon town	5,561	6,447	886	15.93%
Avondale CDP	754	674	-80	-10.61%
Bark Ranch CDP	-	213	-	-
Basalt town	2,681	3,857	1,176	43.86%
Battlement Mesa CDP	3,497	4,471	974	27.85%
Bayfield town	1,549	2,333	784	50.61%
Bennett town	2,021	2,308	287	14.20%
Berkley CDP	10,743	11,207	464	4.32%
Berthoud town	4,839	5,105	266	5.50%
Bethune town	225	237	12	5.33%
Beulah Valley CDP	1,164	556	-608	-52.23%
Black Forest CDP	13,247	13,116	-131	-0.99%
Black Hawk city	118	118	0	0.00%
Blanca town	391	385	-6	-1.53%
Blende CDP	-	878	-	-
Blue River town	685	849	164	23.94%
Blue Sky CDP	-	24	-	-
Bonanza Mountain Estates CDP	-	128	-	-
Bonanza town	14	16	2	14.29%
Boone town	323	339	16	4.95%
Boulder city	94,673	97,385	2,712	2.86%
Bow Mar town	847	866	19	2.24%

House Regions Six and Seven Plans - H6001v2/H7001v2
Metro Area Zoom



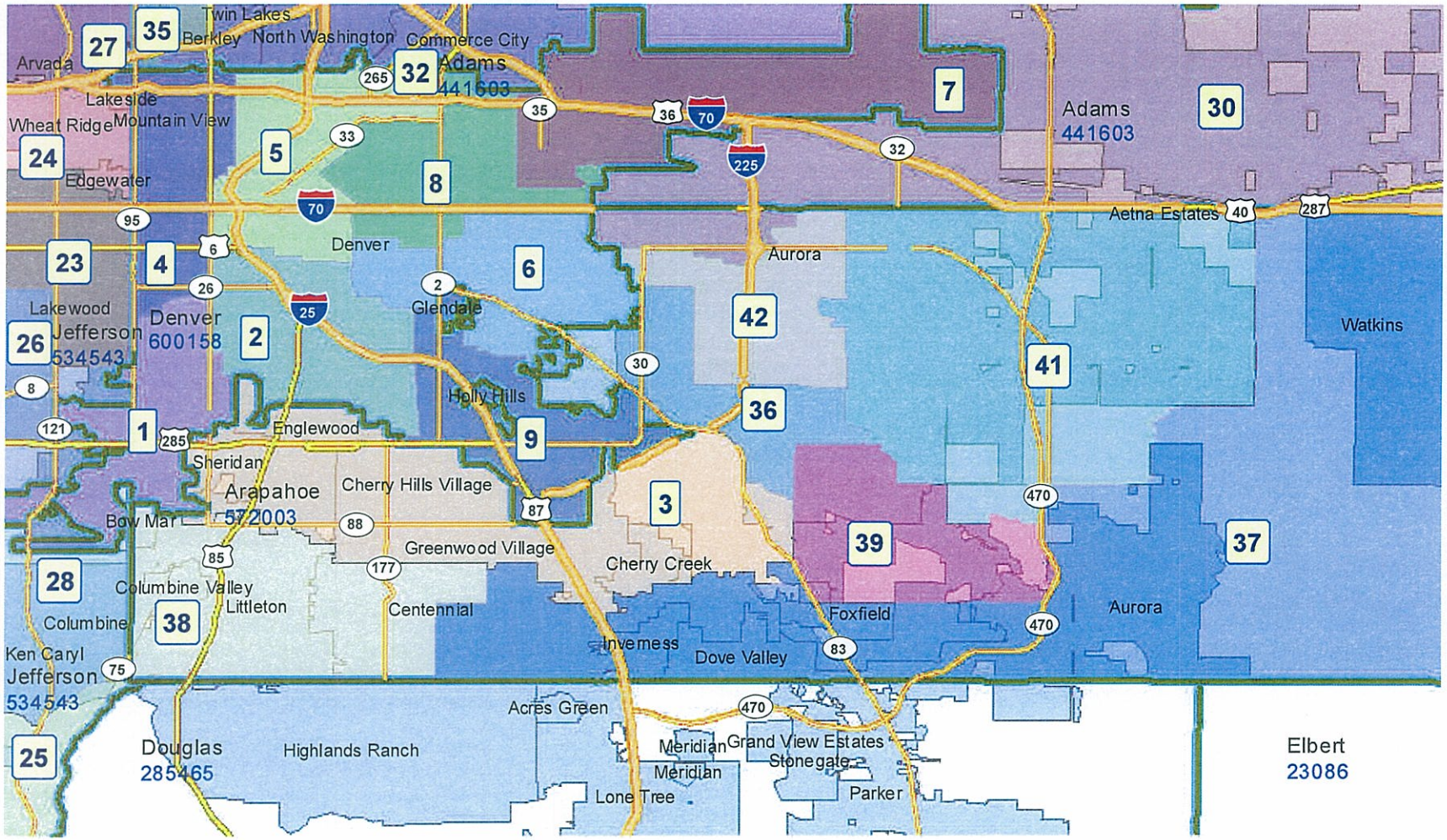
2011 Colorado Reapportionment Commission
1313 Sherman Street
Room 122
Denver, Colorado 80203

N
W E
S

EXHIBIT
H

Map prepared by Reapportionment Commission Staff, July 18, 2011.

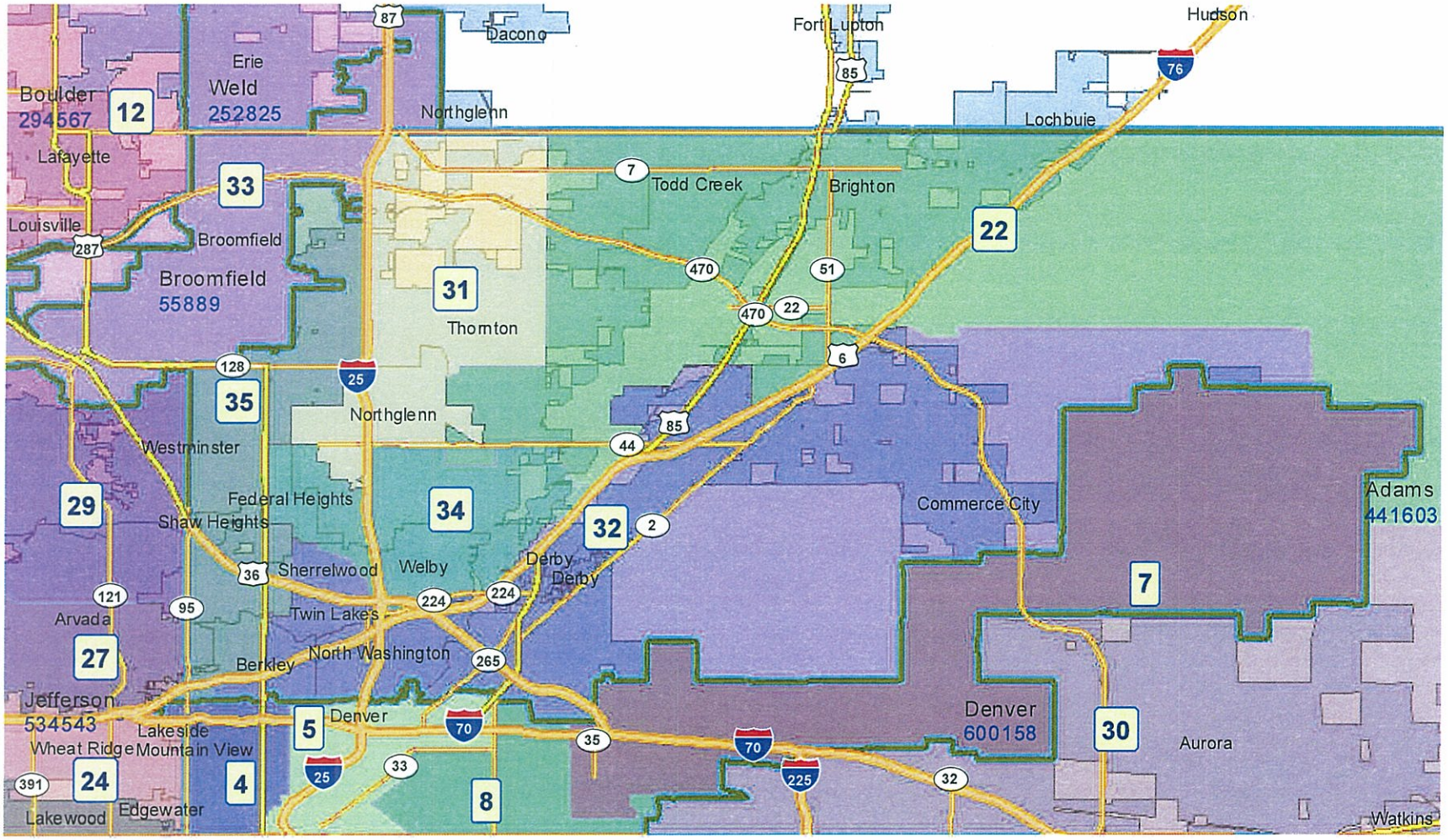
House Regions Six and Seven Plans - H6001v2/H7001v2
Western Arapahoe County Zoom



2011 Colorado Reapportionment Commission
1313 Sherman Street
Room 122
Denver, Colorado 80203

Map prepared by Reapportionment Commission Staff, July 18, 2011.

House Regions Six and Seven Plans - H6001v2/H7001v2
Western Adams County Zoom

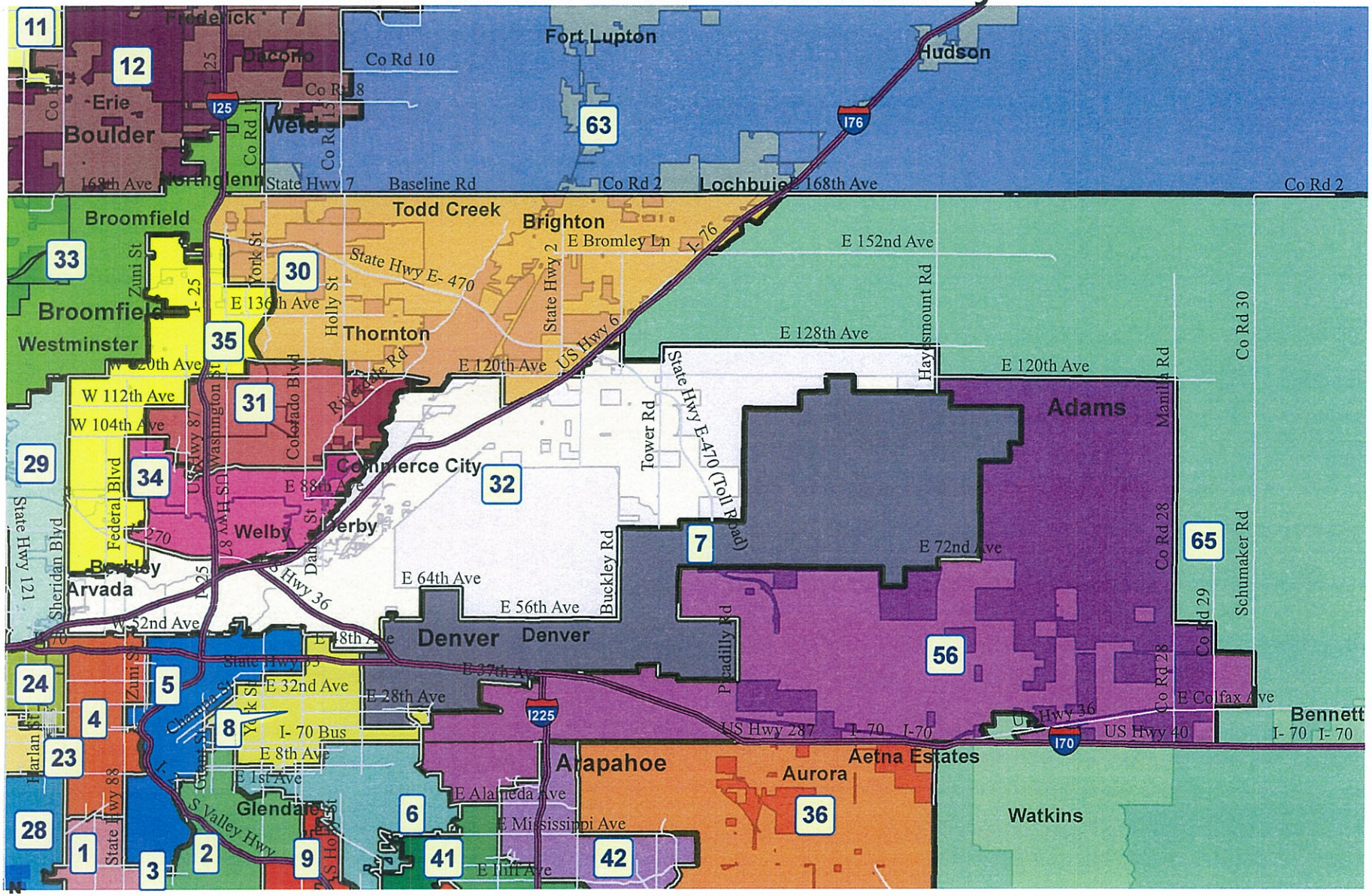


2011 Colorado Reapportionment Commission
1313 Sherman Street
Room 122
Denver, Colorado 80203

N
W E
S

Map prepared by Reapportionment Commission Staff, July 18, 2011.

House Final Plan
Western Adams County



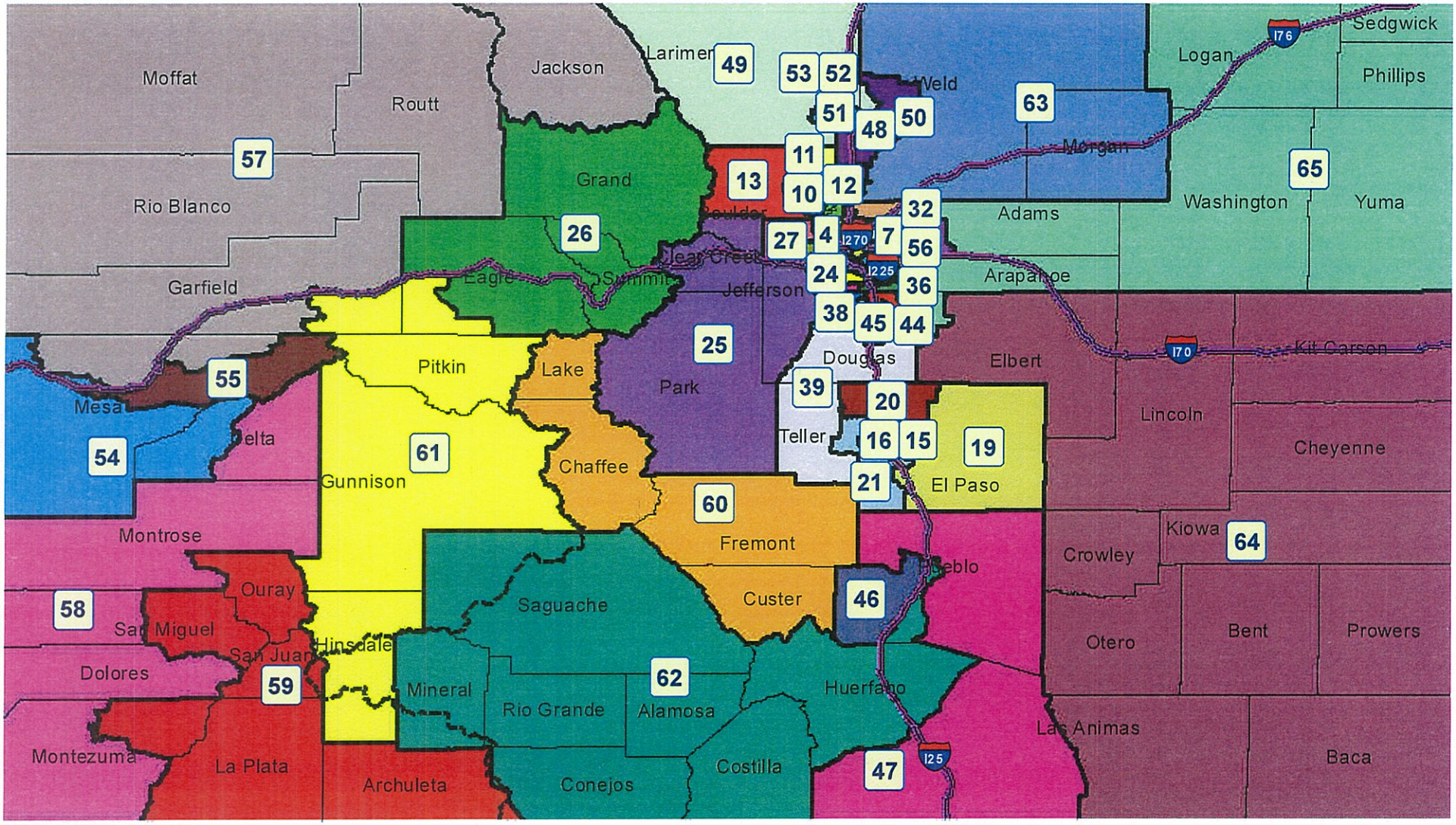
N
W E
S

2011 Colorado Reapportionment Commission
1313 Sherman Street
Room 122
Denver, Colorado 80203

EXHIBIT
I

Map prepared by Reapportionment Commission Staff, October 3, 2011.

House Final Plan

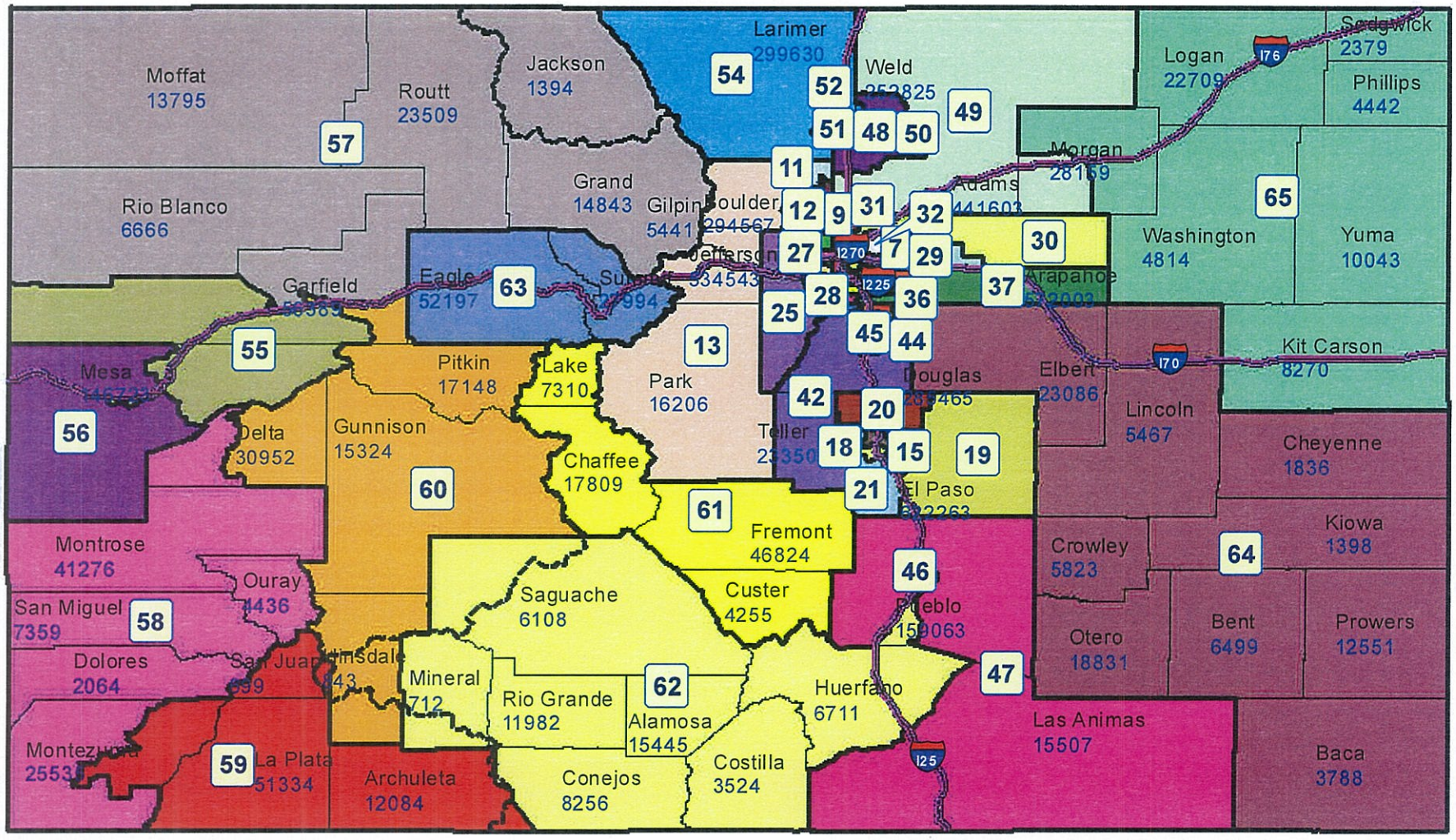


2011 Colorado Reapportionment Commission
1313 Sherman Street
Room 122
Denver, Colorado 80203

EXHIBIT
J

Map prepared by Reapportionment Commission Staff, October 3, 2011.

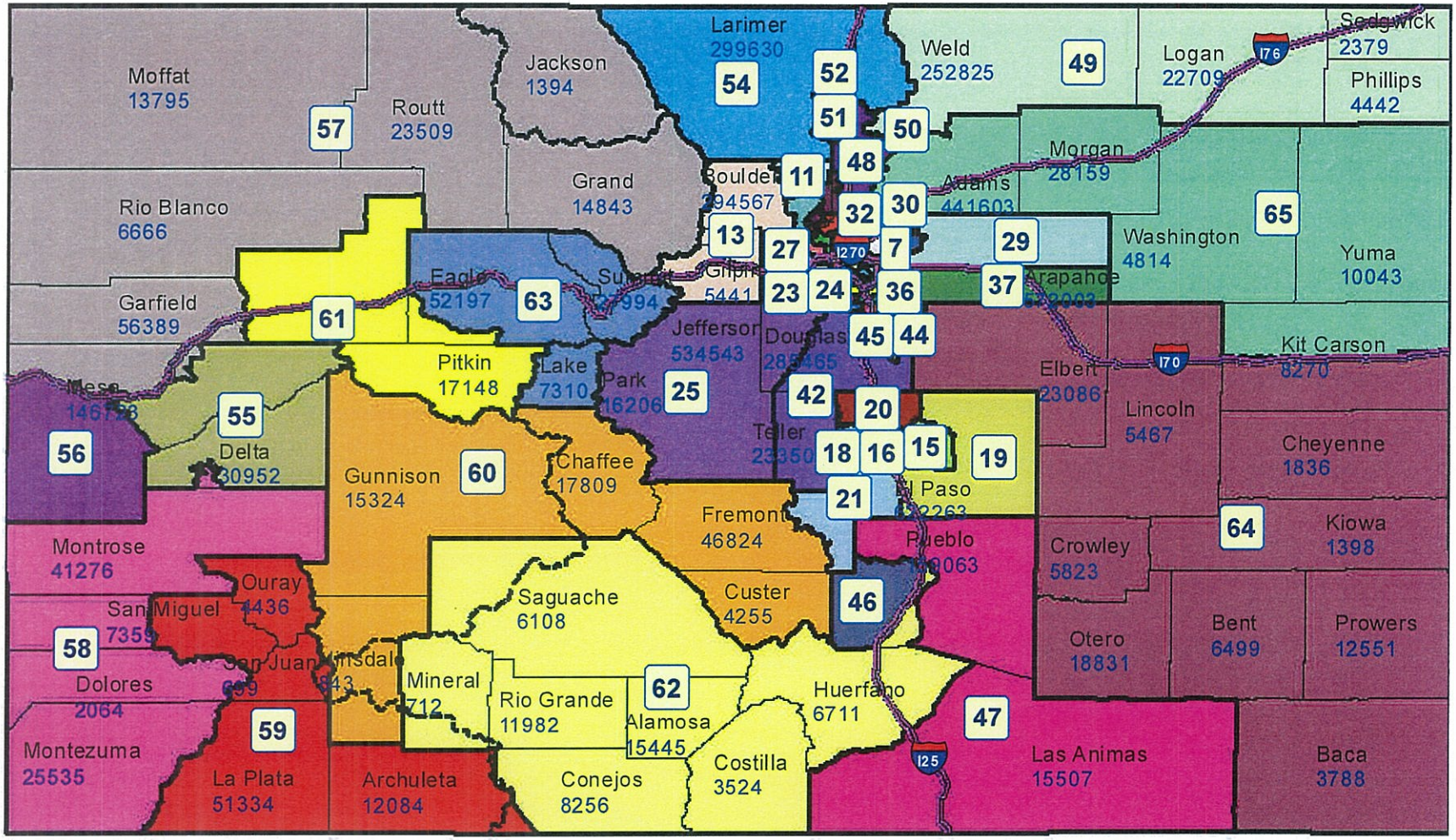
Final Plan House 002v3



2011 Colorado Reapportionment Commission
1313 Sherman Street
Room 122
Denver, Colorado 80203

Map prepared by Reapportionment Commission Staff, September 15, 2011.

Final Plan House 001v2



2011 Colorado Reapportionment Commission
1313 Sherman Street
Room 122
Denver, Colorado 80203

Map prepared by Reapportionment Commission Staff, September 14, 2011.

2010 Population by Race and Hispanic Origin
Colorado Counties - Total Population

County	Total Population	Non-Hispanic						Hispanic Origin (of any race)
		White	Black/African American	American Indian & Alaska Native	Asian/Pacific Islander alone	Some Other Race alone	Two or More Races Total	
Colorado	5,029,196	3,520,793	188,778	31,244	141,225	7,622	100,847	1,038,687
Adams	441,603	234,970	12,207	2,478	15,907	677	7,486	167,878
Alamosa	15,445	7,667	138	134	136	33	227	7,110
Arapahoe	572,003	361,747	55,657	2,386	29,631	1,002	16,058	105,522
Archuleta	12,084	9,446	33	166	83	21	187	2,148
Baca	3,788	3,323	20	39	6	6	46	348
Bent	6,499	3,832	491	91	60	4	36	1,985
Boulder	294,567	233,741	2,265	1,061	12,149	478	5,597	39,276
Broomfield	55,889	44,358	530	244	3,411	66	1,064	6,216
Chaffee	17,809	15,417	267	143	112	12	180	1,678
Cheyenne	1,836	1,617	7	11	11	0	12	178
Clear Creek	9,088	8,371	50	56	54	11	117	429
Conejos	8,256	3,451	12	47	22	24	80	4,620
Costilla	3,524	1,086	6	29	34	12	30	2,327
Crowley	5,823	3,369	555	91	59	4	59	1,686
Custer	4,255	3,914	41	23	16	5	56	200
Delta	30,952	25,685	137	190	158	41	396	4,345
Denver	600,158	313,012	58,388	3,525	20,420	1,208	12,640	190,965
Dolores	2,064	1,877	3	55	4	0	43	82
Douglas	285,465	243,297	3,245	803	10,738	387	5,603	21,392
Eagle	52,197	35,105	243	134	532	86	408	15,689
Elbert	23,086	21,005	159	126	187	17	358	1,234
El Paso	622,263	447,947	35,792	3,693	18,403	1,147	21,616	93,665
Fremont	46,824	37,647	1,805	686	290	19	607	5,770
Garfield	56,389	38,784	236	297	373	93	628	15,978
Gilpin	5,441	4,947	28	34	84	3	78	267
Grand	14,843	13,313	51	52	128	10	173	1,116

EXHIBIT
K

2010 Population by Race and Hispanic Origin
Colorado Counties - Total Population

		Non-Hispanic						
County	Total Population	White	Black/African American	American Indian & Alaska Native	Asian/Pacific Islander alone	Some Other Race alone	Two or More Races Total	Hispanic Origin (of any race)
Gunnison	15,324	13,658	45	61	98	13	194	1,255
Hinsdale	843	786	3	7	3	6	14	24
Huerfano	6,711	4,151	22	54	29	8	79	2,368
Jackson	1,394	1,219	0	13	1	0	11	150
Jefferson	534,543	427,160	5,001	2,638	14,072	715	8,512	76,445
Kiowa	1,398	1,304	3	3	0	0	10	78
Kit Carson	8,270	6,320	217	48	40	3	68	1,574
Lake	7,310	4,252	22	46	32	18	82	2,858
La Plata	51,334	41,245	176	2,554	296	58	949	6,056
Larimer	299,630	253,047	2,259	1,277	5,867	347	5,205	31,628
Las Animas	15,507	8,399	195	170	102	12	183	6,446
Lincoln	5,467	4,345	280	38	41	3	77	683
Logan	22,709	17,754	881	177	130	15	201	3,551
Mesa	146,723	121,944	776	896	1,209	133	2,213	19,552
Mineral	712	678	2	4	1	0	6	21
Moffat	13,795	11,412	32	98	83	11	174	1,985
Montezuma	25,535	19,168	47	2,923	130	20	429	2,818
Montrose	41,276	31,989	118	204	260	59	519	8,127
Morgan	28,159	17,370	755	102	145	35	246	9,506
Otero	18,831	10,639	93	111	142	24	226	7,596
Ouray	4,436	4,143	6	14	30	3	44	196
Park	16,206	14,842	69	117	101	14	280	783
Phillips	4,442	3,526	14	13	30	4	25	830
Pitkin	17,148	15,067	82	25	214	15	184	1,561
Prowers	12,551	7,873	54	65	40	11	91	4,417
Pueblo	159,063	86,054	2,646	985	1,234	264	2,069	65,811
Rio Blanco	6,666	5,756	49	44	33	5	114	665
Rio Grande	11,982	6,600	25	104	42	16	109	5,086
Routt	23,509	21,310	91	68	161	15	264	1,600

Final

STAFF SUMMARY OF MEETING

COLORADO REAPPORTIONMENT COMMISSION

Date: 08/06/2011
Time: **12:04 PM** to **02:02 PM**

Place: Ute Museum, Montrose

This Meeting was called to order by
Nicolais

This Report was prepared by
Clare Pramuk

ATTENDANCE	
Atencio	
Berry	X
Carroll	X
Jones	
Loevy	X
Nicolais	X
Salazar	X
Tool	
Witwer	
Webb	
Carrera	X

X = Present, E = Excused, A = Absent, * = Present after roll call

Bills Addressed:		Action Taken:	
Introduction Witness Testimony		- -	

Note: This meeting summary is not an official record of the commission or of the meeting. It is not intended to serve as a transcript or minutes of the commission meeting. The audio recording of the meeting is the official record of the meeting. This summary may be used as a guide to the audio recording. To access the audio recording of a commission meeting, visit the Colorado Joint Legislative Library located in the State Capitol, Room 048 (basement/ground floor level). You will need to note the date, time, and location of the meeting to access the audio recording. Copies of the audio recordings may be obtained at the library if you bring with you blank, recordable compact discs or a flash drive. Librarians are on site and available to assist you with accessing an audio recording.

12:04 PM -- Introduction

Chair Nicolais opened the meeting with introductions. Troy Bratton read the introductory statement.

12:11 PM -- Witness Testimony

Virginia Selby presented a PowerPoint about why not to include Delta County in District 61. This included geographic barriers such as McClure Pass. She noted that coal mining is key to the county's economy and that Delta County has nothing in common with Aspen and Glenwood Springs. She said that the community of interest criterion is not met. She submitted written testimony as well (Attachment A).

Attachment A.pdf

12:24 PM

Commissioner Salazar asked what counties should be included with Delta. Ms. Selby likes the current arrangement. Commissioner Loevey asked about the coal business which is growing. Commissioner Nicolais asked about the county split. Ms. Selby suggested a split along communities of interest. Commissioner Carrera asked about better geographical splits. Ms. Selby agreed that they are important. The most important thing is for Delta County to not be aligned with Pitkin County.

12:28 PM

Commissioner Berry took over the chair position and introduced herself. Senator Carroll introduced herself.

Bruce Hovde, Delta County Commissioner expressed his concerns about the configuration of HD 61 with ski resorts in eastern Delta County. He's okay with the current split in Delta County but would prefer it to be whole. He also has concerns about SD 6 because of the inclusion of ski resorts. The Region 10 Transportation District was discussed. It includes: Delta, Montrose, San Miguel, Ouray, Hinsdale and Gunnison counties.

12:36 PM

Ann Evans, Delta County Clerk would like to see Delta County whole. She likes the 2001 division better than being with Pitkin County. She noted that the Hwy 50 corridor is a linking point for counties. She wants it kept with an agrarian economy. Commissioner Nicolais asked about how county splits affect her job. She said that it increases the number of ballot styles and costs. Commissioner Loevy brought up the difference between ski counties and traditional western slope counties. He asked if commonalities are more important than having swing districts. Commissioner Berry asked about voting rates which are high.

12:42 PM

Richard Wojciechoski, resident of Ouray County addressed the house plan. He supports the currently adopted plan that includes Ouray with Montrose. He discussed school commonality, transportation sharing, drainage, utilities, medical care, first responders and shopping. He doesn't want the plan changed to connect Ouray to counties over Red Mountain Pass. Commissioner Berry agreed about Red Mountain pass. Commissioner Nicolais appreciated his focus on what works. He asked about other counties. Commissioner Carrera asked about Hinsdale and Gunnison.

12:53 PM

Elizabeth Matz – did not choose to testify.

Brian Ahern, Chair of Democratic Party of San Miguel County cited examples of differences in counties. He referred to Montrose as the most Republican part of the state. He's okay with the senate map but concerned about house map. He'd like for a Democrat to be able to win in San Miguel County. Transportation needs are different for Montrose and Delta Counties from San Miguel and Ouray Counties. He would prefer to be in HD 59 than HD 58.

1:05 PM

Jane Bilberry, advocated for Montrose County. She said that SD 6 is fine but she wants Montrose County in HD 58 and Telluride in HD 59. Commissioner Loevy clarified that she wanted to split San Miguel with eastern San Miguel in HD 59. Commissioner Nicolais asked about commonalities between Delta and Montrose.

1:11 PM

Deann Hanson is new resident of Montrose but lived in Gunnison. She asked that Gunnison not be split. She likes region 10 kept together.

1:13 PM

Paul Gray, Executive Director for Region 10 Transportation District, suggested that the area has a common interest that isn't Democrat or Republican. Region 10 started in the 1970's. After federal funding was cut, counties and municipalities agreed to fund the district. They are economically dependent. He would like to see the 6 counties kept together. Commissioner Carroll asked about the transportation priorities. "You can't get them from here" is a big problem. Maintenance funding is low. Transit development is the best solution. Commissioner Salazar discussed the process that requires them to split rural counties. Commissioner Carrera asked about Region 10 population since the total population exceeds a district size. Mr. Gray suggested looking a population with similar interests.

1:28 PM

Marvin Ballantyne lives west of Montrose. Montrose doesn't have a lot in common with Telluride. Delta is a lot like Montrose. They share an electric association, technical school, and water users association. He thinks topography is more important than straight lines/county lines. He suggested following ridge lines.

1:31 PM

Dea Jacobson, argued about Delta County being split 30 years ago. She's a former congressional aide for Ben Nighthorse Campbell. She prefers to make Delta County whole with HD 58. Delta and Montrose share the Black Canyon and a growing Hispanic community. She doesn't want Delta split and put in HD 54. She agrees with putting Telluride with HD 59. Commissioner Carroll asked about a parade she saw in Cedar Ridge. It was the Serenity Run. Commissioner Berry asked about Grand Junction. Ms. Jacobson thinks it should have its own district.

1:39 PM

Representative Don Coram, HD 58 addressed San Miguel County and Telluride. He noted that Telluride is serviced by this area. Commissioner Nicolais asked about Delta County commonalities with other counties.

1:46 PM

Trudy Mikus, a Crawford resident is concerned about being moved into HD 61 from HD 58. She doesn't want to be with the resorts.

1:47 PM

Barbara Hulet is from Olathe but does business in Delta. She has a choice of where to send her kids to school and thinks that should be considered. She thinks Delta should be with Montrose.

1:50 PM

Bill Mikus, a Crawford resident wanted to know who appointed the independent member of the commission. Commissioner Carrera responded. Mr. Mikus disagrees with the values of the people in HD 61.

Commissioner Carroll clarified that differences exist between farming, ranching and tourism. Mr. Mikus doesn't want to be represented by liberals from Aspen.

1:54 PM

Marcia England from Cedar Ridge agreed that agricultural people are not the same as people in ski areas. Commissioner Loevy asked about Crested Butte being different from Aspen.

1:57 PM

Tom Hulet from Olathe doesn't see the county line between Montrose and Delta County as a boundary. He thinks Delta County needs to be with Montrose County.

2:02 PM

Meeting adjourned.

Final

STAFF SUMMARY OF MEETING

COLORADO REAPPORTIONMENT COMMISSION

Date: 08/12/2011

Time: **06:05 PM** to **08:39 PM**

Place: Fort Lewis College - Durango

This Meeting was called to order by
Berry

This Report was prepared by
Bo Pogue

ATTENDANCE

Atencio	E	
Berry	X	
Carroll	E	
Jones	X	
Loevy	X	
Nicolais		E
Salazar	E	
Tool	E	
Witwer	E	
Webb	E	
Carrera	X	

X = Present, E = Excused, A = Absent, * = Present after roll call

Bills Addressed:	Action Taken:
Welcome and Introductions	Witness Testimony and/or Committee Discussion Only
Witness Testimony	Witness Testimony and/or Committee Discussion Only

Note: This meeting summary is not an official record of the commission or of the meeting. It is not intended to serve as a transcript or minutes of the commission meeting. The audio recording of the meeting is the official record of the meeting. This summary may be used as a guide to the audio recording. To access the audio recording of a commission meeting, visit the Colorado Joint Legislative Library located in the State Capitol, Room 048 (basement/ground floor level). You will need to note the date, time, and location of the meeting to access the audio recording. Copies of the audio recordings may be obtained at the library if you bring with you blank, recordable compact discs or a flash drive. Librarians are on site and available to assist you with accessing an audio recording.

06:05 PM -- Welcome and Introductions

The commission was called to order. Commissioner Berry, acting chair, provided some opening remarks to the audience, followed by Commissioners Jones, Loevy, and Carrera.

06:08 PM

Mr. Jeremiah Berry, Reapportionment Commission Staff Director, briefed the audience on the commission, its appointments, its role, and its powers and duties. Mr. Berry laid out the timeline under which the commission must complete its charge, and discussed the work performed by the commission to date to meet its legal requirements. Mr. Berry then discussed the federal and state constitutional, statutory, and other legal requirements that guide the process of redistricting the state's House and Senate seats following each decennial census. Mr. Berry discussed the work of the commission to be done going forward. Commissioner Berry acknowledged the elected public officials at the meeting.

06:20 PM

The commission discussed the changes in the proposed House plan from the existing districts with respect to southwestern Colorado. Ms. Kate Watkins, Reapportionment Commission Staff, provided input on the changes. Commissioner Berry offered some reasons for the changes in the preliminary plan from current boundaries, and discussed the role of public input in the redistricting process. Discussion ensued regarding the disposition of Cortez in the preliminary plan.

06:30 PM

Commissioner Carrera discussed the reasoning behind the creation of the Western Slope portions of the House plan. Commissioner Berry responded to a question regarding communities of interest.

06:33 PM -- Witness Testimony

The following persons testified at the Durango hearing:

06:33 PM -- Mr. Bud Garner, representing himself, discussed population changes that have driven changes to House Districts 58 and 59, and commented on the splitting of Mancos. Discussion ensued regarding the populations of House Districts 58 and 59. Discussion returned to the role of public testimony in the redistricting process, and the disposition of Mancos in the proposed plan. Mr. Garner objected to considering certain populations in the redistricting process. Discussion ensued on this point. Discussion followed regarding public input in the redistricting process.

06:40 PM -- Ms. Carol Tullis, representing Montezuma County as the County Clerk, objected to the splitting of Mancos in any House plan, and also objected to placing certain areas north of Cortez in House District 59, preferring that current precincts remain intact. Ms. Tullis responded to questions regarding her preference pertaining to the splitting of Montezuma County in a House plan. Discussion ensued regarding the disposition of Mancos under the commission's proposed plan. Discussion turned to reprecincting associated with areas around Mancos. Ms. Tullis reiterated her preference for keeping precincts whole around Mancos, and stated the specific precincts in which she is interested.

06:51 PM -- Ms. Pat Rule, representing Montezuma County Republicans, asked about changes to the House districts associated with Telluride, urging the commission to keep it in House District 58. Ms. Rule reiterated Ms. Tullis' opinion about keeping precincts whole. Discussion ensued regarding travel over Red Mountain Pass, and the reliance of the region on interaction with their elected state officials.

06:55 PM -- Mr. Jack McGroder, representing himself, discussed issues associated with splitting counties in the drawing of House Districts 58 and 59, including the potential impact on communities of interest. Commissioners received a set of tables showing population changes, education levels, and income for southwestern counties (Attachment A), and his written comments (Attachment B). Mr. McGroder relied on these written comments during his testimony. Mr. McGroder then provided an overview of the information in Attachment A, and the differences in the cited factors among the counties discussed. Mr. McGroder returned to his written remarks. Discussion ensued regarding the issue of amenity migration in the region, along with other regional economic drivers, and how these should shape redistricting.

AttA.pdf

AttB.pdf

07:06 PM

Discussion ensued regarding the population figures cited in Attachment A. Mr. McGroder responded to questions regarding his preference for splitting a county in the House plan, and political differences between east and west San Miguel County.

07:10 PM -- Mr. Larrie Rule, representing Montezuma County, reiterated Ms. Tullis' testimony regarding splitting precincts in the commission's proposed House plan, and potential problems associated with splitting precincts. Mr. Rule responded to questions regarding his preference for the placement of Indian tribal areas in the House plan.

07:13 PM -- State Senator Ellen Roberts objected to putting Cortez in House District 58 and Telluride in House District 59, and discussed the transportation corridors, watersheds, and communications infrastructure that shape the area. Senator Roberts discussed certain state agencies that use these factors to shape their work, and spoke about the benefits of putting the two Indian tribes in southwestern Colorado in two separate House districts. Senator Roberts also supported keeping the precincts around Mancos whole, and discussed the subject of southwestern Colorado's "voice."

07:23 PM -- Ms. Kellie Hotter, representing La Plata County as its commissioner, supported the comments of Senator Roberts, and expanded on these comments.

07:25 PM -- Mr. James Huffman, representing Archuleta County Republicans, supported Senator Roberts' comments, and contrasted the lifestyles of Montezuma, La Plata, and Archuleta Counties with those on the north side of Red Mountain Pass, including Ouray and Telluride.

07:30 PM -- Ms. Debbie Marquart supported dividing southwestern Colorado in the House plan on a north-south basis, and also supported keeping the current House boundaries as much as possible.

07:32 PM -- Ms. Judith Lichliter, representing Montezuma County, discussed the difficulties of living in southwestern Colorado, and the association of the region with New Mexico. Ms. Lichliter discussed the various identities of the region, and expressed her disappointment with the focus of the board on the eastern portion of Colorado. Ms. Lichliter supported keeping districts in the southwest the same, and contrasted the region with urban areas of the state. Ms. Lichliter urged the commission to listen to the Indian tribes, and discussed educational opportunities in the southwest. Commissioner Berry responded to Ms. Lichliter's remarks.

07:43 PM -- Ms. Pearl Casias, representing the Southern Ute Indian Tribe as its Chairman, read a statement about the Southern Ute and Ute Mountain Indian tribes, focusing on its intergovernmental activities, and certain differences between the two tribes. Ms. Casias urged the commission to split the two tribes between two House districts in the final House plan, and discussed the uniqueness of the tribes. Ms. Casias responded to questions regarding her preference for splitting the tribes. Discussion ensued regarding the boundaries of the two tribal reservations, and the potential division of the two tribes among two House districts. Ms. Casias discussed public perception about the Indian tribes, and the need for education among all parties.

07:57 PM -- Ms. Carla Mulkey, representing La Plata County, discussed the community's relationship with the Indian tribes, and provided her background. Ms. Mulkey discussed changes that have taken place in southwestern Colorado over the years, and the benefits of keeping Montezuma County whole in a House plan. Ms.

Mulkey also made suggestions about how to realign the counties in the House plan.

08:03 PM -- State Representative J. Paul Brown, representing himself, urged the commission to keep House precincts whole in Montezuma County, and discussed the nature of House District 59, highlighting the geographic imposition of Red Mountain Pass. Representative Brown clarified where he lives.

08:08 PM -- Mr. Manuel Heart, representing the Ute Mountain Ute Tribe as a councilor and former tribal chair, urged cooperation at an intergovernmental basis, and read a statement from Chairman Gary Hayes regarding the placement of the tribe in a House redistricting plan. The statement urged the commission to divide the Ute Mountain and Southern Ute tribes among two House districts, and highlighted the benefits of doing so. Mr. Heart discussed the importance of tribal sovereignty, and urged the commission to meet with the tribes on a government-to-government basis. Mr. Heart also discussed the benefits of meeting with the tribes in person, and provided some facts about the tribes and their arrangements. Mr. Heart discussed the importance of educating the public about the tribes, and tribal needs. Mr. Heart urged the commission to keep the current tribal split among two districts.

08:20 PM

Discussion ensued regarding the current House boundaries with respect to the Ute Mountain and Southern Ute tribal boundaries.

08:22 PM -- Ms. Elizabeth Romere, representing herself, discussed the relative isolation and orientation of southwestern Colorado toward New Mexico, and addressed certain issues raised in earlier testimony.

08:24 PM -- Mr. Paul Romere, representing himself, supported earlier testimony, and objected to drawing Telluride into House District 59. Mr. Romere echoed previous testimony about the communications isolation in southwestern Colorado. Discussion ensued regarding the lack of television coverage in the region. Commissioner Carrera weighed in on the issue.

08:30 PM -- Mr. Art Charette, representing himself, supported keeping La Plata and Montezuma Counties together as they are now, and objected to drawing Telluride and other areas to the north in House District 59.

08:33 PM -- Mr. Jaime McMillan, representing himself, discussed his experiences as a new resident in Durango, and addressed testimony provided by Mr. McGroder, speaking about migration patterns and the economic needs of southwestern Colorado. Mr. McMillan discussed his candidacy for House District 59.

08:39 PM

The commission received two written submissions (Attachment C). The commission adjourned.

AttC.pdf

Attachment A

2010 Census Colo data source: http://quickfacts.census.gov/qfd/states/08000.html (accessed 09 Aug 2011)

In consideration of redistricting Colorado State House 58 / 59

Submitted as verbal and written testimony, by (steven w.) Jack McGroder, resident La Plata County

Testifying in favor of House 59 as common Amenity-based growth and tourism: Archuleta, La Plata, San Juan, Ouray, and eastern San Miguel counties; and in favor of House 58 as common, traditional rural and Ag: Montezuma, Dolores, western San Miguel, and Montrose counties

County	2000 Pop.	2010 Pop.	% change	annual change	2009 Median $	2009 Poverty level	2005-2009 BA or higher education
Archuleta	9896	12084	22.1%	2.2%	$ 46,013	12.9%	35.1%
La Plata	43949	51334	16.8%	1.7%	$ 56,610	11.6%	41.6%
San Juan	558	699	25.3%	2.5%	$ 38,253	13.5%	45.2%
Ouray	3742	4436	18.5%	1.9%	$ 59,810	8.5%	39.9%

Proposed Alt.
Colorado House 59

Common "Natural Amenity" growth and tourism district, including eastern San Miguel County. Population growth and demographic change are driven by in-migration of more affluent, educated, and amenity seeking households. Amenities include both "natural" and public (schools, parks, water & sewer, and retail services.)

59th w/ San Miguel east	total	72233	est.

When splitting San Miguel on real and current cultural divide, income and education numbers diverge starkly, west and east, aligning then with House 58 (west) and 59 (east)

San Miguel (entire county)	6594	7359	11.6%	1.2%	$ 60,115	10.7%	45.9%
		x .5					
San Miguel x .5		3680					

admittedly crude halving of population.

Proposed Alt.		
est.	72233	CO 59
est.	72555	CO 58
-323	-0.0044	% diff.

	2000 Pop.	2010 Pop.	% change	annual change	2009 Median $	2009 Poverty level	2005-2009 BA or higher education
San Miguel west		3680					
Montezuma	23830	25535	7.2%	0.7%	$ 40,859	16.9%	24.4%
Dolores (incl. Rico $)	1844	2064	11.9%	1.2%	$ 43,248	12.4	13.9
Montrose	33432	41276	23.5%	2.4%	$ 48,108	12.8	35.5

Proposed Alt.
Colorado House 58

Population including western San Miguel County is relatively homogeneous, traditional rural, agricultural district, with low to moderate growth, including expectations of lower taxes and correspondingly lower public service levels. There is no natural divide in this configuration, other than east/west San Miguel County.

58th w/ San Miguel west	total	72555	est.

Montezuma County and Cortez are a unitary entity of relatively low-growth, traditional rural and ag; there is no natural divide in this county, it is homogeneous.

Written and Verbal Testimony: Colorado Redistricting Forum
Fort Lewis College
Durango, CO 12 Aug 2011

Testimony of:

(Steven W.) Jack McGroder
Resident, La Plata County
970-884-7384

Self-employed
Previously served on the La Plata County Economic Development Action Partnership
Author of the Town of Bayfield's Economic Development Plan[1] (2009)
Contributed one year of service on La Plata County Comp Plan development (2009)

I will be speaking to the commission today from an economic and demographics perspective.

Testimony:

Point 1

If the redistricting of Colorado State House districts 58 and 59 requires splitting one of the counties to be included therein, that split should be made upon the very real cultural and economic divide of eastern and western San Miguel County. This divide is real, it is substantial, and it is in place, on the ground, right now.

Conversely, any necessary splitting of a county should *not* be made upon a non-existent divide that must somehow be forced across an otherwise common, homogeneous county. The proposed severing of Montezuma County in the current proposal, is exactly this type of artificial, forced divide of an otherwise natural whole.

Point 2

We have two very different communities or cultures present across these several counties:

We have traditional rural, agriculture-based communities. These comprise towns and counties that are slower growing, have less current demand on and expectation for public services, and a lower expectation of taxes otherwise needed to provide those services. These rural and ag communities also manifest lower overall household income, lower educational attainment, and commensurately lower expectations for retail and professional services. This is primarily, but not exclusively House 58.

And, we have recreational or "natural amenity"-based communities. These comprise towns and counties that are faster growing through in-migration of new residents, have high current demand on and expectation for public services, including schools, parks,

[1] http://bayfieldgov.org/AboutBayfield/documents/BayfieldEconDevPlanUniv.CO-DenverNov09.pdf

water & sewer, and retail and professional services. These amenity-based communities also manifest higher median household incomes, and higher educational attainment, and so command the resources to fund, via higher taxes and other avenues, their greater expectations for services.

Point 3

It just so happens that these two distinct "communities" have relatively naturally occurring boundaries, and internal geographic attributes:

Looking at a map of the region, and looking more or less south to north, we find the core counties of House 59, Archuleta, La Plata, San Juan, and Ouray Counties, being both contiguous to one another and encompassing the more mountainous terrain of this region. It is also these core counties of House 59 that make up much of the newer "amenity-based" population, including the towns of Pagosa Springs, Durango, Silverton, and Ouray. Eastern San Miguel and the City of Telluride are natural members of this grouping.

Looking at the same map of the region, we find the core counties of House 58, Montezuma, Dolores, and Montrose Counties all sharing the more traditional rural and agricultural identity, being more outside of the mountains, and being anchored in the north by the City of Montrose, and anchored in the south by the City of Cortez.

And we have an outlier, that of San Miguel County. San Miguel County is the most internally dis-similar, in and of itself, and so offers a perfectly clear and natural demarcation between its own cultural divide, affluent and amenity-seeking east, and traditional rural and ag west.

Point 4

By accepting the entirely natural divide that is already present within San Miguel, and a divide that is also geographically in perfect alignment for attaching east San Miguel to House 59, and west San Miguel to House 58, we arrive at the full satisfaction of the current redistricting mandate:

We have "like with like": We have rural ag with rural ag, and we have amenity migration and tourism with amenity migration and tourism.

We have higher income and higher education communities, with higher expectations for services, together. And we have traditional communities with lower tax and service expectations, together.

Only in this configuration is each community as whole and complete as it can be. And each community can have a clear and focused voice for its own authentic interests.

To do otherwise is to fundamentally deny one of these communities their authentic voice, and their otherwise inalienable right to proper representation.

I ask the members of this commission to leave the organic whole of Montezuma County intact and unsevered, and to accept the very real and present cultural divide of east and west San Miguel County as the proper and right "split", if we must split a county in this process.

I ask now to briefly direct the commission members to the demographic spread sheet included with my written testimony.

On this spread sheet I have the core elements of House 58, on the bottom, being the counties of Montrose, Dolores, and Montezuma. On the top are the core counties of House 59, being Archuleta, La Plata, San Juan, and Ouray.

For purposes of comparison, I have San Miguel County separate, in the middle of the page.

The county-level demographic factors I have focused upon are:

- Population growth 2000 to 2010, as total percent and annual percent change
- Median Household income, 2009
- Poverty level, 2009
- and Educational attainment, 2005-2009, with a BA being a four-year college degree, or higher

In aggregate, and as expected, we see a clear divergence between the core elements of these two districts.

We have overall higher growth, income, and education levels in House 59, and a lower overall poverty rate.

And we have lower overall growth, income, and education levels in House 58, and higher overall poverty rate.

I was not able to disaggregate east and west San Miguel, but if we did, we would see income and education levels jump significantly for the east county, and drop correspondingly for the west county. And each would be in harmony with their respective districts.

Conclusion:

House 58 is a traditional rural, agricultural district. It is properly anchored in the south by the City of Cortez, and in the north by the City of Montrose. Montezuma County, *inclusive* of the City of Cortez, is culturally whole. It should be left whole and intact, and incorporated as such within Colorado House 58.

In contrast, San Miguel County has a fully natural, current divide, and that divide is precisely that of traditional rural ag, on the west side, and newer amenity migration and tourism on the east side. This is the only natural divide present for our consideration and I urge the commission to accept the good Lord's giving it to us, ready-made.

Attachment C

August 11, 2011

To: Colorado Redistricting Committee

Re: Redistricting Boundaries

As residents of Archuleta County, Colorado, we oppose our congressional district being changed to include Telluride. The 59th District should remain as currently drawn.

We urge you to take into consideration the requests of the residents of this district as well as the geographical logistics, the extreme difference in property values, and number of families with grade and high school age students.

Sincerely,

James M. Smith
Mary Ann Smith

961 Scenic Ave
Pagosa Springs Co 81147

8/11/11

I have a concern about House Seat #59 if Telluride is included.

How can one justify equating the voting values of Telluride to those in Durango. Makes no sense given the needs of a very rich resort (Telluride) and the needs of a town (Durango) with families and a small, not so rich ski area.

As a metric to illustrate the differences between Telluride and Durango, I researched the assessed property values and pupil enrollment for both towns for the 2009/10 time frame. The ratio of assessed valuation to pupil count is rather telling. These #'s show the differences anticipated in **voter's values** when they vote in a very rich town (Telluride) compared to a not so rich town (Durango).

Also shown below is the perceived differences in "voter values" between typical towns in the 59th and Telluride.

Telluride seems to be unique with the present #59 and #58 boundaries able to deal with Telluride. Why change.

School District	Total Assessed Valuation	Total Pupil Enrollment	Assessed Valuation to Pupil Ratio
Archuleta	$393,982,948	1,568.4	$251,201
Durango	**$2,198,992,650**	**4,536.9**	**$484,691**
Montezuma	$496,435,980	2,928.1	$169,542
Telluride	**$893,454,757**	**678.1**	**$1,317,586**

File = Redistricting No 1 - 8.9.11

Talk Later
John Bozek
805 Stevens Circle
Pagosa Springs CO 81147
970 731 4933

File = Redistricting in State – 8/11/11

		Population	Voting Age Population
District: 9			
	Colorado Springs	139,303 of 416,427	106,896
District: 10			
	Colorado Springs	88,289 of 416,427	60,357
District: 11			
	Manitou Springs	0 of 4,992	0
	Colorado Springs	140,224 of 416,427	106,914
District: 12			
	Green Mountain Falls	612 of 640	484
	Manitou Springs	4,992 of 4,992	4,168
	Colorado Springs	48,611 of 416,427	38,124
	Cascade-Chipita Park	1,655 of 1,655	1,319
			318,287

Jefferson County *Population of 534,543*

District: 16			
	Westminster	33,043 of 106,114	24,839
	Arvada	2,849 of 106,433	2,233
District: 18			
	Coal Creek	716 of 2,400	600
District: 19			
	Westminster	42,418 of 106,114	32,240
	Arvada	99,664 of 106,433	76,375
	Fairmount	104 of 7,559	88
District: 20			
	Lakewood	98,935 of 142,980	78,468
	Arvada	3,920 of 106,433	2,965
	Fairmount	0 of 7,559	0
District: 22			
	Morrison	0 of 428	0
	Dakota Ridge	30,513 of 32,005	22,631
	Genesee	3,609 of 3,609	2,913
	Columbine	22,421 of 24,280	17,296

EXHIBIT
tabbies
N

Population Summary

Plan Name: Workspace: Seante>>Final Plan Senate 001v1
Plan was last edited on: 9/7/2011 11:01:50 AM
State of Colorado

9/7/2011
2:34 pm

District	Population	Ideal District	Deviation	%Deviation
1	144,060	143,691	369	0.26
2	143,906	143,691	215	0.15
3	140,112	143,691	-3,579	-2.49
4	142,119	143,691	-1,572	-1.09
5	141,583	143,691	-2,108	-1.47
6	144,787	143,691	1,096	0.76
7	146,723	143,691	3,032	2.11
8	144,590	143,691	899	0.63
9	140,452	143,691	-3,239	-2.25
10	143,295	143,691	-396	-0.28
11	140,872	143,691	-2,819	-1.96
12	140,118	143,691	-3,573	-2.49
13	144,316	143,691	625	0.43
14	146,721	143,691	3,030	2.11
15	140,968	143,691	-2,723	-1.90
16	147,201	143,691	3,510	2.44
17	147,283	143,691	3,592	2.50
18	147,284	143,691	3,593	2.50
19	146,527	143,691	2,836	1.97
20	141,122	143,691	-2,569	-1.79
21	146,779	143,691	3,088	2.15
22	144,192	143,691	501	0.35
23	143,484	143,691	-207	-0.14
24	147,210	143,691	3,519	2.45
25	147,192	143,691	3,501	2.44
26	140,466	143,691	-3,225	-2.24
27	143,709	143,691	18	0.01
28	140,149	143,691	-3,542	-2.47
29	140,919	143,691	-2,772	-1.93
30	143,346	143,691	-345	-0.24
31	140,341	143,691	-3,350	-2.33
32	142,422	143,691	-1,269	-0.88
33	146,700	143,691	3,009	2.09
34	147,079	143,691	3,388	2.36
35	141,169	143,691	-2,522	-1.76

Mean Deviation in persons is: 2,347.23 *
Mean Deviation as a percent of ideal population is: 1.63 *

District with the largest population deviation is district: 18 with a population of: 147,284 The set ideal population is: 143,691
This district is 3,593 Persons OVER its set ideal population. Percent Deviation: 2.50%

District with the largest population is district: 18 with a population of: 147,284 The set ideal population is: 143,691
This district is 3,593 Persons OVER its set ideal population. Percent Deviation: 2.50%

District with the smallest population is district: 3 with a population of: 140,112 The set ideal population is: 143,691
This district is 3,579 Persons UNDER its set ideal population. Percent Deviation: 2.49%

Plan range (which is calculated between the district with the largest and the district with the smallest population) is as follows:

7,172 Persons, which is 4.99% of the ideal set population for the district with the largest population.

* Only absolute values are considered

		Population	Voting Age Population
	Denver	75,563 of 600,158	61,825
District: 7			
	Denver	77,825 of 600,158	52,203
District: 8			
	Denver	75,486 of 600,158	60,461
			471,392

Douglas County *Population of 285,465*

District: 42			
	Highlands Ranch	18,654 of 96,713	11,507
District: 43			
	Highlands Ranch	78,059 of 96,713	54,285
			65,792

El Paso County *Population of 622,263*

District: 14			
	Colorado Springs	78,130 of 416,427	55,088
District: 15			
	Colorado Springs	77,309 of 416,427	54,862
	Cimarron Hills	734 of 16,161	471
District: 16			
	Colorado Springs	76,029 of 416,427	60,584
District: 17			
	Stratmoor	3,860 of 6,900	2,603
District: 18			
	Colorado Springs	75,391 of 416,427	61,382
District: 19			
	Colorado Springs	34,693 of 416,427	24,445
	Cimarron Hills	15,427 of 16,161	11,032
District: 20			

		Population	Voting Age Population
	Green Mountain Falls	612 of 640	484
District: 21			
	Colorado Springs	74,875 of 416,427	55,930
	Stratmoor	3,040 of 6,900	2,522
District: 42			
	Green Mountain Falls	28 of 640	25
			329,428

Jefferson County *Population of 534,543*

District: 13			
	Coal Creek	979 of 2,400	824
District: 22			
	Dakota Ridge	14,688 of 32,005	11,053
	Columbine	22,421 of 24,280	17,296
District: 23			
	Lakewood	74,275 of 142,980	58,617
	West Pleasant View	0 of 3,840	0
	Applewood	1,779 of 7,160	1,465
District: 24			
	Fairmount	6,227 of 7,559	4,869
	West Pleasant View	3,840 of 3,840	3,108
	Applewood	5,381 of 7,160	4,333
District: 25			
	Dakota Ridge	16,958 of 32,005	12,445
	Columbine	0 of 24,280	0
	Coal Creek	1,421 of 2,400	1,166
District: 26			
	Westminster	42,418 of 106,114	32,240
	Arvada	32,308 of 106,433	24,655
District: 27			
	Arvada	71,276 of 106,433	54,685
	Fairmount	1,332 of 7,559	1,054

Population Summary

Plan Name: Workspace: House>>Final Plan House 002v2
Plan was last edited on: 9/15/2011 2:14:09 PM
State of Colorado

9/15/2011
2:49 pm

District	Population	Ideal District	Deviation	%Deviation
1	76,353	77,372	-1,019	-1.32
2	75,484	77,372	-1,888	-2.44
3	75,481	77,372	-1,891	-2.44
4	75,546	77,372	-1,826	-2.36
5	75,460	77,372	-1,912	-2.47
6	75,563	77,372	-1,809	-2.34
7	77,825	77,372	453	0.59
8	75,486	77,372	-1,886	-2.44
9	76,573	77,372	-799	-1.03
10	79,236	77,372	1,864	2.41
11	78,058	77,372	686	0.89
12	79,252	77,372	1,880	2.43
13	79,180	77,372	1,808	2.34
14	78,581	77,372	1,209	1.56
15	79,265	77,372	1,893	2.45
16	76,041	77,372	-1,331	-1.72
17	78,887	77,372	1,515	1.96
18	75,727	77,372	-1,645	-2.13
19	79,053	77,372	1,681	2.17
20	76,383	77,372	-989	-1.28
21	78,326	77,372	954	1.23
22	75,616	77,372	-1,756	-2.27
23	76,410	77,372	-962	-1.24
24	76,111	77,372	-1,261	-1.63
25	75,460	77,372	-1,912	-2.47
26	76,466	77,372	-906	-1.17
27	77,188	77,372	-184	-0.24
28	77,012	77,372	-360	-0.47
29	75,874	77,372	-1,498	-1.94
30	75,757	77,372	-1,615	-2.09
31	79,148	77,372	1,776	2.30
32	79,278	77,372	1,906	2.46
33	79,296	77,372	1,924	2.49
34	79,082	77,372	1,710	2.21
35	76,370	77,372	-1,002	-1.30
36	77,567	77,372	195	0.25
37	79,256	77,372	1,884	2.43
38	78,302	77,372	930	1.20
39	76,773	77,372	-599	-0.77
40	76,363	77,372	-1,009	-1.30
41	78,594	77,372	1,222	1.58
42	75,497	77,372	-1,875	-2.42
43	78,087	77,372	715	0.92
44	79,035	77,372	1,663	2.15
45	76,196	77,372	-1,176	-1.52
46	75,527	77,372	-1,845	-2.38
47	75,795	77,372	-1,577	-2.04

48	75,590	77,372	-1,782	-2.30
49	75,696	77,372	-1,676	-2.17
50	75,894	77,372	-1,478	-1.91
51	76,744	77,372	-628	-0.81
52	79,101	77,372	1,729	2.23
53	79,051	77,372	1,679	2.17
54	79,271	77,372	1,899	2.45
55	78,783	77,372	1,411	1.82
56	79,274	77,372	1,902	2.46
57	78,827	77,372	1,455	1.88
58	78,401	77,372	1,029	1.33
59	79,288	77,372	1,916	2.48
60	76,198	77,372	-1,174	-1.52
61	78,776	77,372	1,404	1.81
62	75,986	77,372	-1,386	-1.79
63	79,215	77,372	1,843	2.38
64	79,279	77,372	1,907	2.46
65	76,002	77,372	-1,370	-1.77

Mean Deviation in persons is: 1,437.51 *
Mean Deviation as a percent of ideal population is: 1.86 *

District with the largest population deviation is district: 33 with a population of: 79,296 The set ideal population is: 77,372
This district is 1,924 Persons OVER its set ideal population. Percent Deviation: 2.49%

District with the largest population is district: 33 with a population of: 79,296 The set ideal population is: 77,372
This district is 1,924 Persons OVER its set ideal population. Percent Deviation: 2.49%

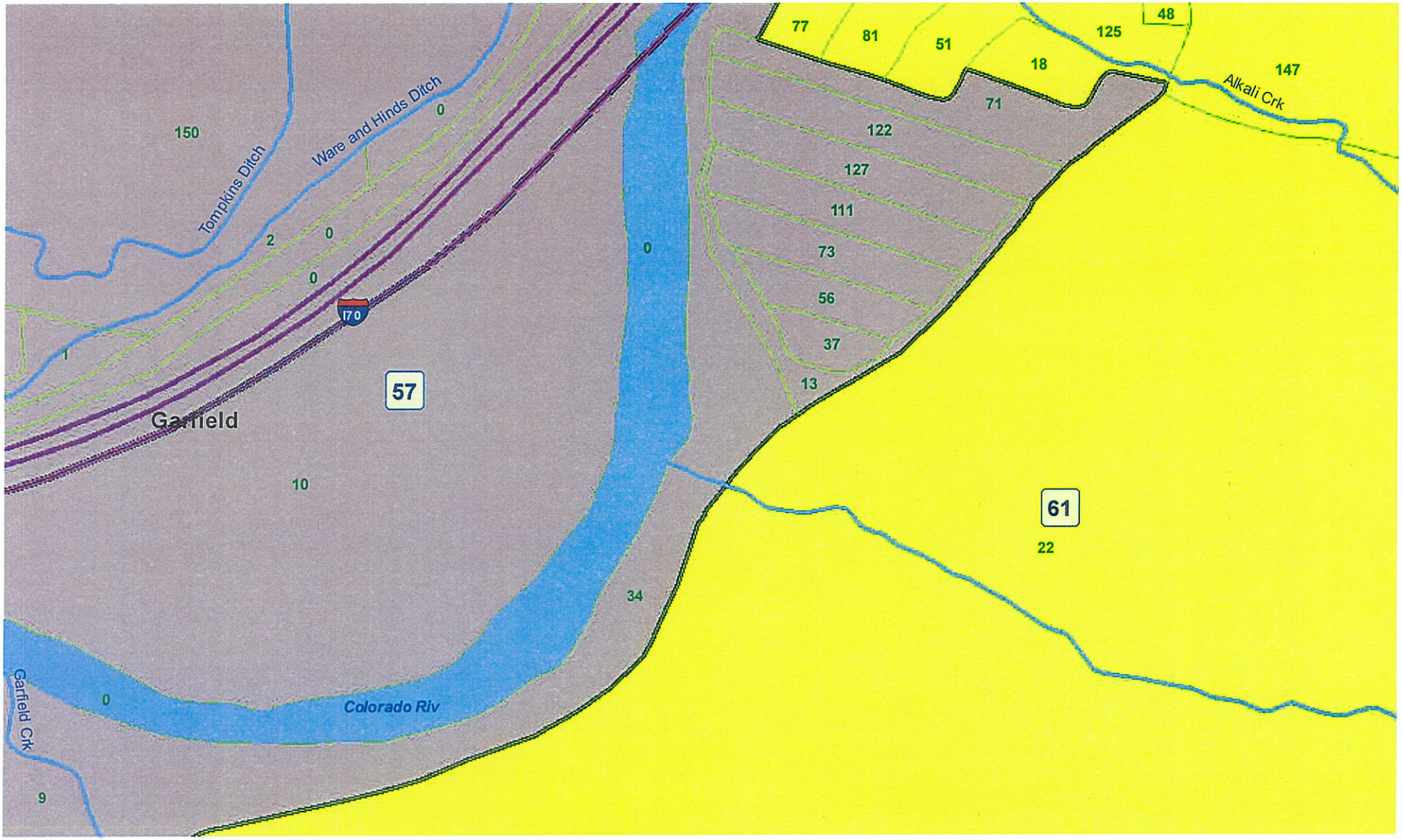
District with the smallest population is district: 5 with a population of: 75,460 The set ideal population is: 77,372
This district is 1,912 Persons UNDER its set ideal population. Percent Deviation: 2.47%

Plan range (which is calculated between the district with the largest and the district with the smallest population) is as follows:

3,836 Persons, which is 4.96% of the ideal set population for the district with the largest population.

* Only absolute values are considered

House Final Plan
Garfield County



N
E

2011 Colorado Reapportionment Commission
1313 Sherman Street
Room 122
Denver, Colorado 80203

EXHIBIT
O

Map prepared by Reapportionment Commission Staff, October 24, 2011

Senate Population Footprints

County	2010 Population	Divided by Ideal Senate District Size
State	**5,029,196**	**143,691**
Southeastern Footprint		
Alamosa	15,445	0.11
Baca	3,788	0.03
Bent	6,499	0.05
Conejos	8,256	0.06
Costilla	3,524	0.02
Crowley	5,823	0.04
Custer	4,255	0.03
Huerfano	6,711	0.05
Kiowa	1,398	0.01
Las Animas	15,507	0.11
Mineral	712	0.00
Otero	18,831	0.13
Prowers	12,551	0.09
Pueblo	159,063	1.11
Rio Grande	11,982	0.08
Saguache	6,108	0.04
TOTAL	**280,453**	**1.95**
Northeastern Footprint		
Boulder	294,567	2.05
Broomfield	55,889	0.39
Cheyenne	1,836	0.01
Kit Carson	8,270	0.06
Larimer	299,630	2.09
Lincoln	5,467	0.04
Logan	22,709	0.16
Morgan	28,159	0.20
Phillips	4,442	0.03
Sedgwick	2,379	0.02
Washington	4,814	0.03
Weld	252,825	1.76
Yuma	10,043	0.07
TOTAL	**991,030**	**6.90**

EXHIBIT
P

Senate Population Footprints

County	2010 Population	Divided by Ideal Senate District Size
West Slope Footprint		
Archuleta	12,084	0.08
Chaffee	17,809	0.12
Delta	30,952	0.22
Dolores	2,064	0.01
Eagle	52,197	0.36
Garfield	56,389	0.39
Grand	14,843	0.10
Gunnison	15,324	0.11
Hinsdale	843	0.01
Jackson	1,394	0.01
Lake	7,310	0.05
La Plata	51,334	0.36
Mesa	146,723	1.02
Moffat	13,795	0.10
Montezuma	25,535	0.18
Montrose	41,276	0.29
Ouray	4,436	0.03
Pitkin	17,148	0.12
Rio Blanco	6,666	0.05
Routt	23,509	0.16
San Juan	699	0.00
San Miguel	7,359	0.05
Summit	27,994	0.19
TOTAL	**577,683**	**4.02**
South Front Range Footprint		
Elbert	23,086	0.16
El Paso	622,263	4.33
Fremont	46,824	0.33
Teller	23,350	0.16
TOTAL	**715,523**	**4.98**
Jeffco/Foothills Footprint		
Clear Creek	9,088	0.06
Gilpin	5,441	0.04
Jefferson	534,543	3.72
Park	16,206	0.11
TOTAL	**565,278**	**3.93**
Douglas Footprint		
Douglas	285,465	1.99
TOTAL	**285,465**	**1.99**
Arapahoe Footprint		
Arapahoe	572,003	3.98
TOTAL	**7,402,867**	**3.98**
Adams/Denver Footprint		
Adams	441,603	3.07
Denver	600,158	4.18
TOTAL	**1,041,761**	**7.25**

House Population Footprints

County	2010 Population	Divided by Ideal House District Size
State	5,029,196	77,372

South Central Footprint

Alamosa	15,445	0.20
Conejos	8,256	0.11
Costilla	3,524	0.05
Custer	4,255	0.05
Huerfano	6,711	0.09
Las Animas	15,507	0.20
Mineral	712	0.01
Pueblo	159,063	2.06
Rio Grande	11,982	0.15
Saguache	6,108	0.08
TOTAL	**231,563**	**2.99**

Eastern Plains Footprint

Baca	3,788	0.05
Bent	6,499	0.08
Cheyenne	1,836	0.02
Crowley	5,823	0.08
Elbert	23,086	0.30
Kiowa	1,398	0.02
Kit Carson	8,270	0.11
Lincoln	5,467	0.07
Logan	22,709	0.29
Morgan	28,159	0.36
Otero	18,831	0.24
Phillips	4,442	0.06
Prowers	12,551	0.16
Sedgwick	2,379	0.03
Washington	4,814	0.06
Yuma	10,043	0.13
TOTAL	**160,095**	**2.07**

House Population Footprints

County	2010 Population	Divided by Ideal House District Size
West Slope Footprint		
Archuleta	12,084	0.16
Chaffee	17,809	0.23
Delta	30,952	0.40
Dolores	2,064	0.03
Eagle	52,197	0.67
Fremont	46,824	0.61
Garfield	56,389	0.73
Grand	14,843	0.19
Gunnison	15,324	0.20
Hinsdale	843	0.01
Jackson	1,394	0.02
Lake	7,310	0.09
La Plata	51,334	0.66
Mesa	146,723	1.90
Moffat	13,795	0.18
Montezuma	25,535	0.33
Montrose	41,276	0.53
Ouray	4,436	0.06
Park	16,206	0.21
Pitkin	17,148	0.22
Rio Blanco	6,666	0.09
Routt	23,509	0.30
San Juan	699	0.01
San Miguel	7,359	0.10
Summit	27,994	0.36
TOTAL	**640,713**	**8.28**
North Central Footprint		
Broomfield	55,889	0.72
Larimer	299,630	3.87
Weld	252,825	3.27
TOTAL	**608,344**	**7.86**
El Paso Footprint		
El Paso	622,263	8.04
TOTAL	**622,263**	**8.04**
Douglas Footprint		
Douglas	285,465	3.69
Teller	23,350	0.30
TOTAL	**308,815**	**3.99**
Boulder Footprint		
Boulder	294,567	3.81
Clear Creek	9,088	0.12
Gilpin	5,441	0.07
TOTAL	**309,096**	**3.99**
Jefferson Footprint		
Jefferson	534,543	6.91
TOTAL	**534,543**	**6.91**

House Population Footprints

County	2010 Population	Divided by Ideal House District Size
Adams/Arapahoe Footprint		
Adams	441,603	5.71
Arapahoe	572,003	7.39
TOTAL	**1,013,606**	**13.10**
Denver Footprint		
Denver	600,158	7.76
TOTAL	**600,158**	**7.76**