Colorado Independent
Redistricting Commissions

M E M O R A N D U M

October 1, 2021

TO: Independent Congressional Redistricting Commission

FROM: Colorado Independent Redistricting Commissions Staff

SUBJECT: Report pursuant to Article V, Section 44.3 (3)(c)

Article V, Section 44.3 (3)(c) of the Colorado Constitution provides:

> **Section 44.3. Criteria for determinations of congressional districts - definition.**
> (c) When the commission approves a plan, or when nonpartisan staff submits a plan in the absence of the commission's approval of a plan as provided in section 44.4 of this article V, the nonpartisan staff shall, within seventy-two hours of such action, make publicly available, and include in the commission's record, a report to demonstrate how the plan reflects the evidence presented to, and the findings concerning, the extent to which competitiveness in district elections is fostered consistent with the other criteria set forth in this section.

The Colorado Independent Redistricting Commissions Staff submits the following report pursuant to that provision.

Evidence of Competitiveness

Pursuant to Article V, Section 44.3 (3) of the Colorado Constitution, at its public hearings throughout the state, the Colorado Independent Congressional Commission (the "Commission") solicited evidence relevant to the competitiveness of elections in Colorado. Many persons testifying at these hearings only encouraged the Commission to create competitive districts. Others testified as to alternative methods of measuring competitiveness or suggested modifications to the Commission's chosen approach. The people who made these suggestions appeared to be favoring one party or another.

The Commission did request that Dr. Bob Loevy, Professor Emeritus of Political Science at Colorado College and a member of the Colorado Reapportionment Commission in 2011, speak to the Commission on measuring competitiveness. Dr. Loevy reported that in 2011 the Colorado Reapportionment Commission measured competitiveness using a single, statewide race and reviewed how each proposed district would have voted in that race. If the difference between the percentage of votes cast for the Democratic and Republican candidates in that race was

less than 10% in a district, the district was considered competitive. Dr. Loevy also testified that, even though Colorado has a large number of voters who are not registered with any political party, the difference between the number of persons registered with the Democratic or Republican Party is a good source of information on the competitiveness of a district.

The Map Analytics Committee of the Commission also heard from Ben Schler, from Reasonable Districts Colorado, and Bradley Wascher, a data vendor at Inside Elections. Mr. Wascher said that a district's partisan performance through the use of election results is more valuable than voter registration. He recommended using a number of elections to measure partisan performance. Members of the subcommittee were worried about adjusting and weighing election results, noting that this might enable the analysis to be manipulated.

Finally, the Map Analytics Committee heard from Dr. Matthew Hitt, an Associate Professor in the Department of Political Science at Colorado State University. Dr. Hitt also believed that actual election results were more valuable in determining competitiveness than voter registration. He also suggested using multiple elections over multiple years. He suggested that the threshold for calling a district competitive should not exceed a 6% difference between the percentage of votes cast for Democratic and Republican candidates in a race.

Ultimately, the Commission's Map Analytics Committee recommended to the Commission that it use eight statewide races from the 2018 and 2020 General Elections to measure the competitiveness of proposed congressional districts. They selected the same races that the Colorado Independent Legislative Redistricting Commission chose as its competitiveness measure for state legislative districts. The eight races are identified in Appendix A.

The Map Analytics Committee recommended that the Commission use election results rather than party registration for analyzing competitiveness, arguing that such results more accurately reflect how voters actually perform.

The Commission ultimately approved the Committee's recommendation at its meeting on August 12, 2021, and directed its nonpartisan staff to use the average of the eight identified races when creating congressional plans.

While the Commission engaged in discussions about what percentage difference between the votes cast for Democratic or Republican candidates evidenced a competitive district, the Commission did not define a percentage or a range of percentages that demonstrated this.

All of the plans for congressional redistricting presented to the Commission for its consideration included two reports: one showing the election results in each district for the eight elections and an average over all eight, and one showing the number and percentage of persons registered with the Democratic or Republican Party for each proposed congressional district.

Competitiveness of Approved Congressional Redistricting Plan

The Commission considered the competitiveness of each plan that was submitted to it. However, under the priority of criteria established in Article V, Section 44.3, competitiveness is the last item the Commission is to consider. While the Commission considered other plans that may have had more districts with lower percentages, the Commission believed that the Final Approved Congressional Redistricting Plan did a better job of preserving whole communities of interest and political subdivisions, which have higher priority than competitiveness.

The Statewide Election Result by District Report for the Final Approved Congressional Redistricting Plan is attached to this report as Appendix A, and the Active Registered Voters Report is provided as Appendix B.