



Comments of the League of United Latin American Citizens (“LULAC”) and Colorado League of United Latin American Citizens (“Colorado LULAC”) Regarding Colorado Congressional and Legislative Redistricting

On behalf of the League of United Latin American Citizens (“LULAC”) and the Colorado League of United Latin American Citizens (“Colorado LULAC”), Campaign Legal Center (“CLC”) submits the following comments regarding the Colorado Independent Redistricting Commission staff’s preliminary congressional and state legislative plans.

I. Introduction and Summary

The Colorado Constitution provides strong protections for minority voters in redistricting—protections that exceed those imposed by the federal Voting Rights Act (“VRA”). By misinterpreting the Colorado Constitution’s requirements, the Commission’s staff has proposed congressional and state legislative maps that dilute the ability of Hispanic voters to influence electoral outcomes—in violation of the state Constitution.

Unlike the VRA, the Colorado Constitution does not require a threshold showing that a minority group is sufficiently large to constitute the *majority* of a district’s voting population in order for the law to require a district to be drawn to prevent vote dilution. Instead, the Colorado Constitution requires the Commission to draw districts that protect the ability of minority voters to *influence* electoral outcomes. This standard is intentionally more protective than the VRA, and it requires the drawing of “crossover” districts—districts in which a sizeable population of minority voters is joined by white crossover voters to elect minority-preferred candidates. While the United States Supreme Court has held that federal law permits, but does not require, the drawing of crossover districts to prevent vote dilution, the Colorado Constitution mandates the creation of crossover districts where necessary to avoid vote dilution.

Contrary to the Colorado Constitution’s plain text, the Commission’s staff has expressed the view in public meetings that the state Constitution’s protections for minority voters are duplicative of the VRA’s, and that the Colorado provision merely prevents *reducing* the number of preexisting districts with sizeable minority populations (regardless of whether those districts would actually function to elect minority-preferred candidates).

This misunderstanding has led to preliminary maps by the Commission staff that violate the Colorado Constitution.

In particular, the proposed congressional map dilutes the ability of Hispanic voters in southern Colorado, Pueblo, Colorado Springs, Eagle County, and Lake County to influence electoral outcomes, by fracturing them among Districts 3, 4, and 5, where white bloc voting will result in the perpetual defeat of Hispanic-preferred candidates. The proposed state senate map dilutes the voting strength of Hispanic voters in southern Colorado and Pueblo by splitting them between Districts 8 and 9, where white bloc voting will make their ability to influence electoral outcomes nearly impossible (District 8) or tenuous (District 9). The proposed state house map dilutes the ability of Hispanic voters in eastern Greeley and eastern Evans in Weld County to influence electoral outcomes by excluding crossover white voters from District 64 and including in their place white voters who bloc vote against Hispanic-preferred candidates.

The Colorado Constitution precludes the adoption of maps that dilute minorities' voting strength in this manner, elevating this requirement over all others. LULAC and Colorado LULAC have proposed district plans to remedy this violation, and urge the Commission to adopt them.

II. Legal Framework

The Colorado Constitution provides that “[n]o map may be approved by the commission or given effect by the supreme court if . . . [i]t has been drawn for the purpose of or results in the abridgment of the right of any citizen to vote on account of that person’s race or membership in a language minority group, including *diluting the impact* of that racial or language minority group’s *electoral influence*.”¹ The Colorado Constitution therefore eschews any threshold requirement that minority voters constitute a majority of a district’s voting population in order to benefit from legal protections. Instead, if a crossover district can be drawn whereby minority voters, with the assistance of some white voters, can elect their preferred candidates, the constitutional provision requires that such a district be drawn to prevent vote dilution.

This broad language stands in contrast to Section 2 of the VRA. The United States Supreme Court has held in *Bartlett v. Strickland* that the VRA does not require the creation of crossover districts that preserve minority groups’ electoral influence. Rather, the Court held that Section 2’s legal protections are triggered only if a minority group can show “that the minority population in the potential election district is greater than 50%.” In that sense, Section 2 requires a threshold showing that the minority group could depend upon its own votes to elect its candidate of choice. This high bar is precisely what the voters of Colorado rejected in adopting a standard prohibiting the adoption of districts that “dilut[e] the impact” of a minority group’s “electoral influence.”

¹ Colo. Const. art. V, § 44.3(4)(b) (emphasis added); *id.* at § 48.1(4)(b) (same).

While the *Bartlett* Court’s plurality rejected an interpretation of VRA Section 2 that mandated drawing crossover districts, it invited states to adopt their own laws that did so. “Our holding that § 2 does not require crossover districts does not consider the permissibility of such districts as a matter of legislative choice or discretion.”² The plurality underscored that crossover districts may advance important policy considerations, serving “to diminish the significance and influence of race by encouraging minority and majority voters to work together toward a common goal.”³ As the Court acknowledged, crossover districts “give[] [states] a choice that can lead to less racial isolation, not more.”⁴ The plurality therefore concluded that “in the exercise of lawful discretion States c[an] draw crossover districts as they deem[] appropriate.”⁵ Colorado’s voters exercised that discretion by adopting Amendments X and Y in 2018.

Although the plain text of the Colorado Constitution adopts a more protective standard than does VRA Section 2, the Commission’s staff has publicly suggested that the Colorado provision is merely duplicative of the VRA. At the June 23, 2021 Commission meeting, the staff member presenting the preliminary congressional plan explained his view that the drafters of Amendments X and Y were concerned that Congress might repeal the VRA and so adopted a corollary provision under Colorado law that merely duplicates the VRA’s requirements. Indeed, the memo accompanying the proposed maps does not assess the maps under the separate Colorado Constitution’s provision at all, despite its distinct requirements.

While acknowledging that the Colorado Supreme Court had not interpreted the phrase “diluting the impact” of a minority group’s “electoral influence,” the staff member opined that this phrase was a corollary of Section 5 of the VRA, rather than of Section 2.⁶ Section 5 (prior to the U.S. Supreme Court’s invalidation of its coverage formula) precluded certain jurisdictions from *diminishing* the *existing* voting strength of minority voters.⁷ One way Section 5 could be violated was by eliminating a district in which a minority group exerted influence, but not control, over the outcome of elections.⁸ But by its plain text, Section 5 limited its inquiry into whether the elimination of such districts

² *Bartlett v. Strickland*, 556 U.S. 1, 23 (2009).

³ *Id.*

⁴ *Id.*

⁵ *Id.* at 24.

⁶ See Independent Congressional Redistricting Commission, June 23, 2021 Hr’g at 2:33-2:35, <https://sg001-harmony.sliq.net/00327/Harmony/en/PowerBrowser/PowerBrowserV2/20210401/154/12019>.

⁷ See 52 U.S.C. § 10304.

⁸ See *LULAC v. Perry*, 548 U.S. 399, 446 (2006).

“diminish[ed]” existing voting strength, and not whether *new* influence districts could be drawn.⁹

By contrast, the Colorado Constitution does not limit its protections to changes that “diminish” existing voting opportunities. Indeed, it does not reference the concept of diminishment at all. Rather, it prohibits the Commission from adopting, and the state Supreme Court from approving, any map that “results in . . . diluting the impact of [a] racial or language minority group’s electoral influence.” Colo. Const. art. V § 44.3(4)(b). The Amendments’ framers therefore took the “influence” standard that was relevant to inquiries under VRA Section 5, eliminated the concept of diminishment or retrogression, and instead applied that relaxed standard to the type of forward-looking vote dilution inquiry that animates VRA Section 2.¹⁰ In doing so, they rejected allowing the minority vote dilution embedded in past maps to dictate whether dilution must be proactively corrected going forward.

The Colorado provision thus creates an affirmative obligation for the Commission to create *new* districts that protect minority voters’ electoral influence. This is a more protective standard than the federal VRA provides, and it requires independent analysis from the State’s VRA obligations. The question is not, as the Commission’s staff posited, whether the proposed plan reduces the total number of districts with a sizeable Hispanic population. Instead, the question is whether the proposed plan includes features that result in Hispanic voters’ electoral influence being diluted, and whether that dilution can be corrected in a different configuration containing crossover districts.

Here, the Commission’s proposed plans dilute Hispanic voters’ ability to influence electoral outcomes by fracturing them into districts where white bloc voting will routinely defeat their preferred candidates. Alternative districts can be drawn that allow Hispanic voters in the affected regions of the state to be aided by white crossover voters in electing Hispanic-preferred candidates. The Colorado Constitution creates an affirmative obligation on the Commission to draw those crossover districts. And it elevates that obligation over all others, by prohibiting the adoption of a map that dilutes minority voters’ electoral influence while ensuring that other considerations—such as compactness and maintaining whole political subdivisions—should be achieved to the extent “reasonably possible.” Colo. Const. art. V, § 44.3.

III. The Preliminary Congressional Plan Dilutes Hispanic Voters’ Electoral Influence.

The Commission staff’s preliminary congressional plan dilutes the electoral influence of Hispanic voters in southern Colorado, Pueblo, Colorado Springs, Eagle County, and Lake County by fracturing them across Districts 3, 4, and 5, where significant white bloc voting will defeat their preferred candidates. An alternative district can be drawn

⁹ 52 U.S.C. § 10304.

¹⁰ See *LULAC*, 548 U.S. at 433 (“Under § 2, . . . the injury is vote dilution, . . .”).

that joins these voters with a sufficient number of white crossover voters who support Hispanic-preferred candidates to remedy that dilution.

A. Voting in Proposed Districts 3, 4, and 5 is Racially Polarized such that White-Bloc Voting Will Defeat Hispanic Preferred Candidates.

Voting in the Commission staff’s proposed Districts 3, 4, and 5 is racially polarized. This is readily apparent from the voting patterns in racially homogenous precincts, from which the voting preferences of Hispanic and white voters can be deduced.¹¹ The tables below present all precincts in the affected region of the state with Hispanic CVAP exceeding 84% and a sampling of precincts from staff-proposed Districts 3, 4, and 5 with white CVAP exceeding 84% (there are many more such precincts).¹²

Homogenous Hispanic Precincts (CVAP > 84%)								
Precinct	Hispanic CVAP	Party	2020 Pres.	2020 Sen.	2018 Gov.	2018 AG	2018 SOS	2018 Cong.
Costilla County Precinct 1	87.7%	(D)	80.5%	80.5%	90.2%	90.3%	91.4%	90.2%
		(R)	16.9%	15.8%	7.7%	7.6%	8.6%	9.8%
Costilla County Precinct 4	88.1%	(D)	76.6%	78.2%	77.7%	85.7%	86.6%	83.5%
		(R)	22.6%	20.1%	16.3%	11.1%	13.4%	16.5%
Conejos County Precinct 1	84.5%	(D)	74.5%	77.4%	72.7%	77.6%	81.2%	75.1%
		(R)	22.0%	21.5%	21.8%	21.0%	18.8%	24.9%
Conejos County Precinct 4	85.5%	(D)	67.9%	72.4%	78.2%	80.2%	82.5%	73.5%
		(R)	29.1%	26.4%	18.3%	18.3%	17.5%	26.5%
Pueblo County Precinct 101	86.9%	(D)	74.3%	74.0%	77.8%	77.4%	83.3%	76.4%
		(R)	22.5%	23.0%	18.4%	18.7%	16.7%	23.6%

Exemplar Homogenous White Precincts (CVAP > 84%)								
Precinct	White CVAP	Party	2020 Pres.	2020 Sen.	2018 Gov.	2018 AG	2018 SOS	2018 Cong.
Montezuma County Precinct 1	99.7%	(D)	16.5%	16.2%	21.0%	22.8%	24.3%	21.6%
		(R)	82.1%	82.0%	76.6%	75.1%	75.8%	78.4%
Montrose County Precinct 5	98.0%	(D)	14.5%	14.2%	14.6%	12.5%	15.1%	14.0%
		(R)	84.3%	83.7%	83.4%	85.1%	84.9%	86.0%

¹¹ See *Sanchez v. Colorado*, 97 F.3d 1303, 1313 (10th Cir. 1996) (noting the U.S. Supreme Court’s approval of homogenous precinct analysis as well as bivariate ecological regression statistical analysis to assess racially polarized voting).

¹² All demographic data reported herein is from Dave’s Redistricting App (“DRA”), which the Commission’s website encourages the public to use. Where total population and voting age population (“VAP”) are reported, the data is from the 2020 Census, which was released in legacy format on August 12, 2021. Where citizen voting age population (“CVAP”) is reported, the data is from the 2019 American Community Survey (“ACS”) 5-year report. Election data is from DRA, with the exception of the 2018 Secretary of State and 2018 Congress results, which were obtained from the MGGG Redistricting Lab’s Districtr tool, a nonpartisan research group at Tufts University. MGGG excluded “other” candidate votes from its reporting, resulting in minor differences in the reported vote percentages. The precinct numbers are those indicated on DRA.

Exemplar Homogenous White Precincts (CVAP > 84%)								
Precinct	White CVAP	Party	2020 Pres.	2020 Sen.	2018 Gov.	2018 AG	2018 SOS	2018 Cong.
Mesa County Precinct 19	98.5%	(D)	17.0%	17.1%	22.2%	20.4%	18.6%	18.4%
		(R)	80.7%	81.7%	73.9%	77.2%	81.4%	81.6%
Moffat County Precinct 1	95.2%	(D)	14%	13.4%	13.6%	14.2%	14.0%	11.8%
		(R)	83.6%	84.2%	83.7%	82.8%	86.0%	88.3%
Pueblo County Precinct 110	85.8%	(D)	20.8%	21.2%	17.0%	16.1%	19.9%	15.1%
		(R)	77.1%	77.2%	81.1%	82.6%	80.1%	84.9%
Pueblo County Precinct 303	88.9%	(D)	20.6%	20.9%	22.4%	22.2%	26.6%	20.9%
		(R)	77.7%	78.6%	73.4%	73.9%	73.4%	79.1%
Pueblo County Precinct 304	95.6%	(D)	27.1%	25.7%	28.2%	28.2%	29.3%	25.9%
		(R)	70.5%	72.4%	67.1%	68.5%	70.7%	74.1%
Kiowa County Precinct 1	94.9%	(D)	9.0%	10.2%	9.0%	14.3%	15.8%	14.1%
		(R)	90.4%	89.8%	88.1%	85.0%	84.2%	85.9%
Baca County Precinct 9	97.6%	(D)	6.1%	6.3%	5.8%	12.7%	11.3%	11.9%
		(R)	93.9%	92.5%	91.3%	87.3%	88.7%	88.1%
Washington County Precinct 6	98.1%	(D)	8.0%	7.8%	7.2%	8.6%	8.0%	7.4%
		(R)	90.2%	91.2%	90.0%	89.8%	92.0%	92.6%
Phillips County Precinct 2	100%	(D)	8.1%	7.3%	8.8%	9.0%	7.7%	7.6%
		(R)	90.9%	91.7%	87.5%	88.5%	92.3%	92.4%
Weld County Precinct 102	92.0%	(D)	11.6%	9.7%	12.6%	10.7%	13.7%	9.8%
		(R)	86.9%	89.9%	85.0%	87.6%	86.3%	90.2%
El Paso County Precinct 522	90.3%	(D)	19.1%	18.6%	19.1%	18.3%	20.8%	19.8%
		(R)	76.9%	77.1%	74.0%	77.0%	79.2%	80.2%
El Paso County Precinct 502	94.6%	(D)	16.1%	16.0%	19.8%	18.0%	21.0%	21.9%
		(R)	80.9%	81.4%	75.5%	79.8%	79.0%	78.1%

As these tables illustrate, voting is racially polarized across Districts 3, 4, and 5 in the Commission staff's proposal, with Hispanic voters strongly preferring Democratic candidates and white voters strongly preferring Republican candidates.¹³

¹³ Eagle and Lake Counties have sizeable Hispanic populations, but no homogenous precincts. In Eagle County, 30.2% of the total population is Hispanic, and 13.6% of the CVAP is Hispanic. In Lake County, 35.8% of the total population is Hispanic, and 20.7% of the CVAP is Hispanic. The largest concentration of Hispanic population is in Eagle County Precinct 22, where 67.7% of the total population is Hispanic and 48.4% of the CVAP is Hispanic. President Biden received 63.9% of the vote in Precinct 22.

As a general matter, voting in Eagle, Lake, Summit, Pitkin, and Gunnison Counties is not racially polarized, with both Hispanic and a majority of white voters supporting Democratic candidates. But the Commission staff's proposed map prevents Hispanic voters from harnessing this crossover support to effectuate their electoral influence because the proposal situates these counties in District 3, which is dominated by white bloc voting in favor of Republican candidates, while fracturing the areas with large Hispanic populations between Districts 4 and 5.

B. White Bloc Voting Will Defeat Hispanic-Preferred Candidates in Districts 3, 4, and 5.

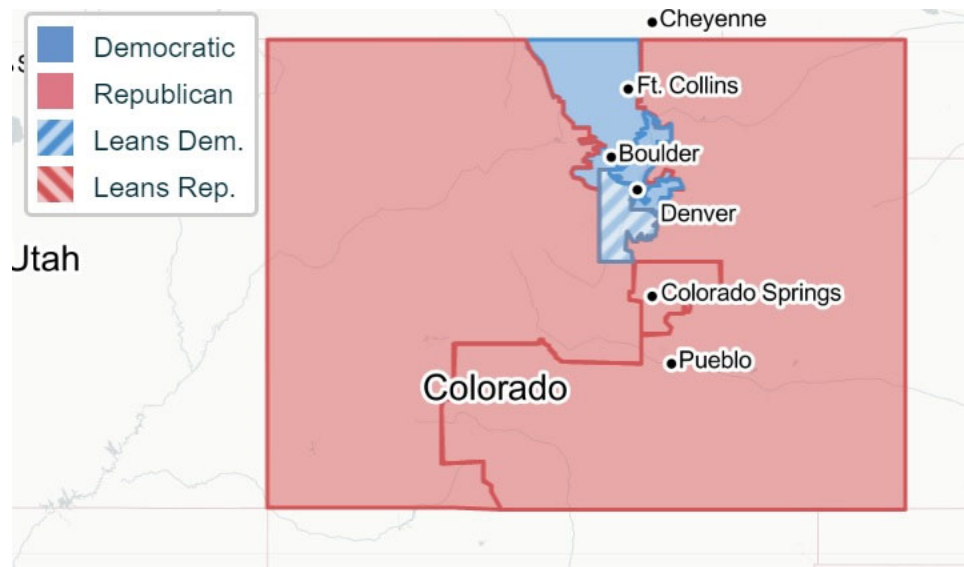
White bloc voting will defeat Hispanic-preferred candidates in the Commission staff's proposed Districts 3, 4, and 5. The Commission staff's memo accompanying its proposal illustrates this result. As the Political Summary appendix to the staff memo shows, Republicans have a substantial voter registration advantage in each district (District 3: 33.0% Republican, 22.0% Democratic; District 4: 35.1% Republican, 24.2% Democratic; District 5: 33.9% Republican, 19.9% Democratic). Likewise, the Commission's staff reported the results of the 2018 Attorney General election, the closest most recent statewide election. In each of proposed Districts 3, 4, and 5, the Republican candidate handily wins over the Hispanic-preferred candidate in those districts, despite losing statewide (District 3: 53.2% to 43.4%; District 4: 59.8% to 36.7%; District 5: 58.2% to 37.8%).

Moreover, predictive tools likewise point to the conclusion that Districts 3, 4, and 5 will solidly elect Republicans—the preferred candidates of white voters in those districts. When the staff's preliminary congressional plan is assessed by PlanScore (www.planscore.org)—a CLC tool that assesses redistricting plans under various measures of partisan effect—Districts 3, 4, and 5 are shown to be solidly Republican. Even excluding the effect of incumbency, PlanScore predicts an 87% chance that Republicans would win District 3, a greater than 99% chance Republicans would win District 4, and a 94% chance that Republicans would win District 5.¹⁴ PlanScore predicts Republican candidates would receive 55% of the vote in District 3, 62% of the vote in District 4, and 57% of the vote in District 5.¹⁵ The map below illustrates the predicted partisan lean of the staff's preliminary congressional plan.¹⁶

¹⁴ See Ex. 1 (Staff Congressional Proposal PlanScore Report). Proposed plans can be uploaded to planscore.org, which scores the partisan effects of the plan under four metrics: efficiency gap, declination, partisan bias, and mean-median difference. Explanations for each measure are available at planscore.org. PlanScore also reports predicted vote shares, certain demographic characteristics, and reconstituted election results from the 2020 presidential election in each district. The demographic data may vary slightly from what is reported in mapping tools used to create plans because of the process of generating data reports from GIS files.

¹⁵ *Id.*

¹⁶ *Id.*



At the June 23 Commission meeting, at which the staff unveiled the preliminary plan, the staff member highlighted that this was the first time Hispanic residents would exceed 28% of the total population in three districts (28.6% in proposed District 1, 31.0% in proposed District 4, and 29.9% in proposed District 8). But this underscores the dilutive effect of the staff's proposal. The district with the largest Hispanic population—District 4—has the strongest white bloc voting in opposition to Hispanic-preferred candidates, with the Hispanic-preferred candidate predicted to have *less than a 1% chance* of winning.

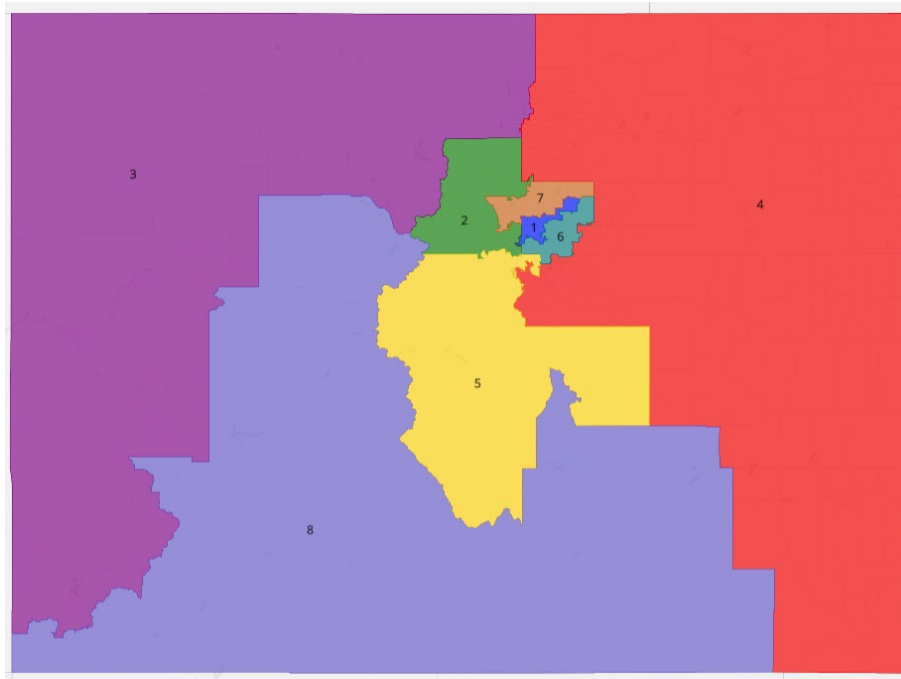
The data shows that the fracturing of Hispanic voters among Districts 3, 4, and 5, coupled with the heavy white bloc voting in opposition to their preferred candidates, will cause the perpetual defeat of Hispanic-preferred candidates. The Commission staff's proposed configuration of Districts 3, 4, and 5 thus results in the dilution of Hispanic voters' ability to influence electoral outcomes in violation of the Colorado Constitution.

C. An Alternative Crossover District Would Remedy the Vote Dilution.

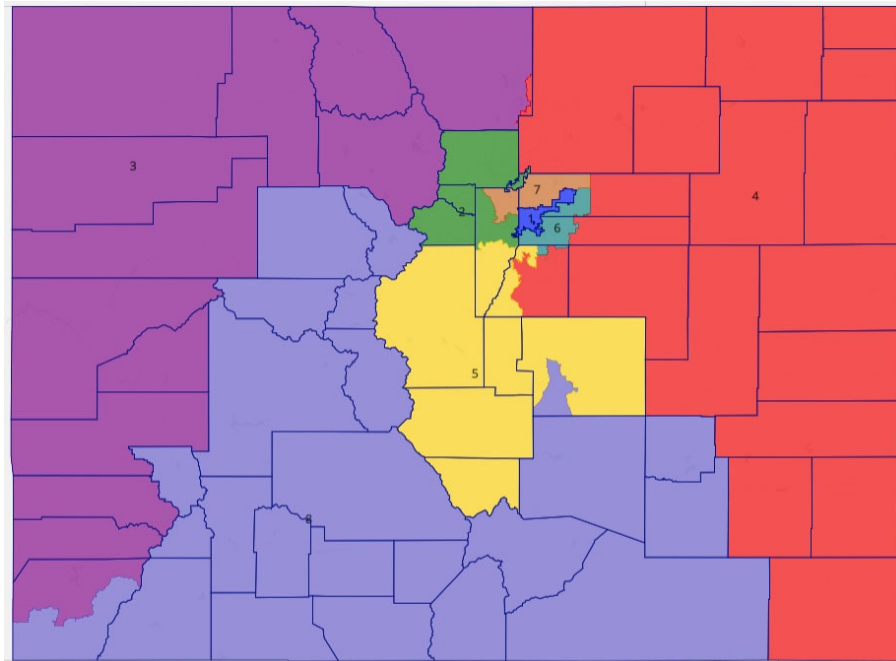
This vote dilution can be remedied by an alternative crossover district that combines the Hispanic populations in southern Colorado, Pueblo, Colorado Springs, Eagle County, and Lake County that are fractured in the Commission staff's proposed map, and pairs them with a sufficient number of white crossover voters to provide Hispanic voters the ability to influence electoral outcomes. LULAC and Colorado LULAC have submitted the following plan ("LULAC Congressional Plan")¹⁷ through the Commission's online portal:

¹⁷ Based on the 2020 Census data, the ideal population of a district is 721,714. Districts 3, 5, 7, and 8 have total populations of 721,714 (0 deviation from ideal). Districts 1, 4, and 6 have total populations of 721,715 (+1 deviation from ideal). District 2 has a total population of 721,713 (-1 deviation from ideal).

LULAC Congressional Plan



LULAC Congressional Plan (with county borders)



In the LULAC Congressional Plan, District 8 remedies the vote dilution present in the Commission staff's preliminary proposal by eliminating the fracturing of the Hispanic population across Districts 3, 4, and 5 and combining them with white crossover voters in

the adjacent mountain communities. The chart below shows the demographic characteristics of the LULAC Plan:

LULAC Congressional Plan Total Population

District	White	Hispanic	Black	Asian	Native	Pacific
1	54.5%	27.8%	10.8%	5.5%	3.5%	0.4%
2	73.8%	15.2%	2.1%	6.0%	2.9%	0.3%
3	77.0%	15.2%	1.6%	2.5%	3.6%	0.3%
4	70.1%	21.5%	2.4%	3.5%	3.0%	0.3%
5	74.5%	12.2%	5.0%	5.4%	3.3%	0.6%
6	54.3%	22.4%	13.2%	8.6%	3.2%	0.6%
7	57.8%	31.8%	3.0%	5.2%	4.0%	0.3%
8	59.2%	29.0%	6.0%	2.8%	5.1%	0.7%

LULAC Congressional Plan Voting Age Population (VAP)

District	White	Hispanic	Black	Asian	Native	Pacific
1	58.8%	24.4%	9.7%	5.2%	3.3%	0.4%
2	76.6%	13.2%	1.8%	5.6%	2.6%	0.2%
3	79.9%	12.8%	1.4%	2.3%	3.3%	0.3%
4	73.3%	18.9%	2.0%	3.0%	3.0%	0.3%
5	77.2%	10.6%	4.3%	4.8%	3.0%	0.5%
6	58.3%	19.7%	11.9%	8.1%	3.0%	0.5%
7	62.0%	28.1%	2.5%	4.9%	3.8%	0.3%
8	63.0%	25.8%	5.2%	2.5%	4.7%	0.5%

LULAC Congressional Plan Citizen Voting Age Population (CVAP)

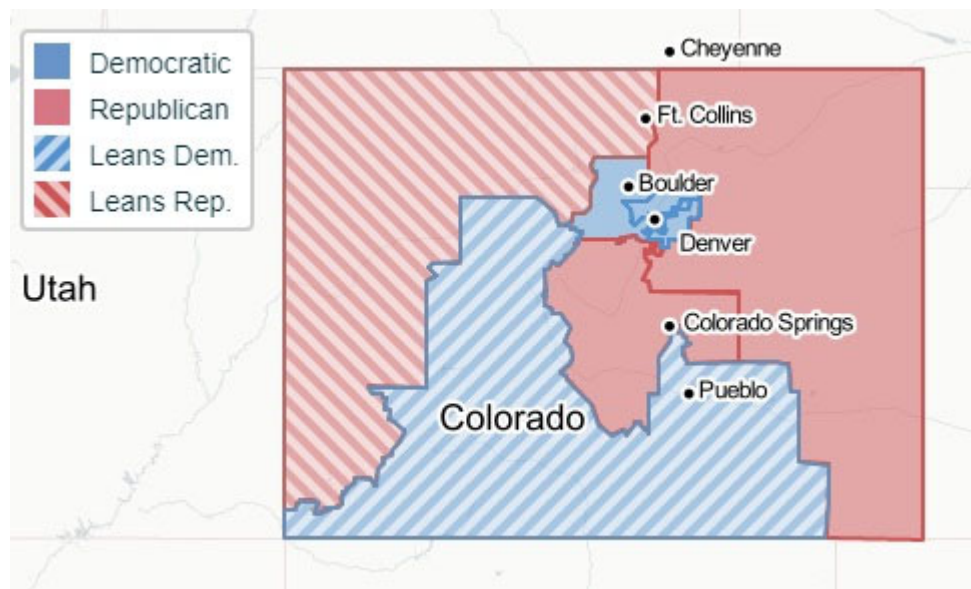
District	White	Hispanic	Black	Asian	Native	Pacific
1	65.1%	20.4%	9.7%	3.3%	1.2%	0.1%
2	82.9%	11.0%	1.3%	3.5%	1.0%	0.1%
3	86.4%	9.6%	1.0%	1.5%	1.4%	0.1%
4	80.3%	15.3%	1.4%	1.6%	1.1%	0.1%
5	82.0%	9.5%	3.9%	3.1%	1.1%	0.1%
6	69.0%	13.3%	11.1%	5.2%	1.1%	0.2%
7	70.9%	22.4%	2.0%	3.3%	1.0%	0.1%
8	67.9%	23.3%	4.5%	1.6%	2.2%	0.3%

The LULAC Congressional Plan, like the Commission staff's preliminary plan, has three districts whose total populations are around 30% Hispanic (including a district centered in the northern suburbs of Denver). But, unlike the staff's plan, in LULAC's Plan the electoral influence of the Hispanic voters in one of those districts is not diluted by submerging them in a district characterized by overwhelming white bloc voting in opposition to their preferred candidates.

The Hispanic-preferred candidate would be expected to prevail in District 8. Below are recent reconstituted election results for District 8.

2020 President		2020 Senate		2018 Governor	
Biden (D)	53.6%	Hickenlooper (D)	52.5%	Polis (D)	53.5%
Trump (R)	43.4%	Gardner (R)	44.5%	Stapleton (R)	42.0%
2018 Atty. Gen.		2016 President		2016 Senate	
Weiser (D)	52.4%	Clinton (D)	47.1%	Bennet (D)	50.9%
Brauchler (R)	43.8%	Trump (R)	43.9%	Glenn (R)	42.5%

PlanScore confirms that District 8 would likely function to protect the electoral influence of Hispanic voters. Excluding the effect of incumbency, PlanScore predicts that District 8 would “Lean Democratic,” with the Democratic candidate predicted to prevail 53% to 47%, with a 74% chance of winning.¹⁸ The map below illustrates PlanScore’s predicted partisan lean for the LULAC Congressional Plan. Notably, the LULAC Congressional Plan advances the Colorado Constitution’s “competitiveness” standard better than the Commission staff’s preliminary plan. In LULAC’s Congressional Plan, two districts are characterized as “leaning” in favor of one party, as opposed to just one district in the Commission staff’s proposal.



Finally, District 8 would function as a crossover district, because the Hispanic-preferred candidate would be likely to prevail in the Democratic primary, and be supported by white crossover voters in the general election. The 2018 Democratic primary for Attorney General is probative. That race featured a close election between Phil Weiser, a white man, and Joe Salazar, a man of Spanish and Apache descent. Weiser won the primary

¹⁸ See Ex. 2 (LULAC Congressional Plan PlanScore Report)

election by fewer than 5,000 votes statewide.¹⁹ Joe Salazar was the candidate of choice among Hispanic voters in LULAC-proposed District 8, as demonstrated by his strong performance in majority-Hispanic counties.²⁰ Although Salazar narrowly lost the statewide primary, he would have carried District 8 by a healthy margin.²¹ Salazar's strong performance in District 8 demonstrates that the Hispanic-preferred candidate would prevail in Democratic primaries in District 8.

IV. LULAC's Congressional Plan Is Compact and Avoids Splitting Political Subdivisions and Communities of Interest to the Extent Practicable.

LULAC's Plan is compact and avoids splitting political subdivisions and communities of interest to the extent practicable, in light of the Colorado Constitution's overriding prohibition on adopting vote dilutive districts. The Reock and Polsby-Popper scores reported below reflect that LULAC's Congressional Plan is as, or more, compact than the Commission staff's preliminary proposal.

District	Reock Score	Polsby-Popper Score
1	.16	.09
2	.50	.18
3	.33	.30
4	.44	.38
5	.50	.23
6	.29	.15
7	.21	.17
8	.31	.21

LULAC's Congressional Plan also has fewer county splits than the Commission staff's plan. In four of the eight districts, LULAC's Congressional Plan splits fewer counties than the Commission staff's plan. The plans have the same number of splits in two districts. And in only two districts does LULAC's Congressional Plan split more counties than the Commission staff's plan. The chart below demonstrates the county splits in the two plans.

¹⁹ Colo. Sec'y of State, 2018 Primary Election Results – Attorney General, <https://www.sos.state.co.us/pubs/elections/Results/Abstract/2018/primary/democratic/attorneyGeneral.html>

²⁰ Salazar carried Conejos County with 64.7% of the vote, and Costilla County with 69.6% of the vote.

²¹ Because of the difficulty of matching 2018 precinct numbers in El Paso County, Salazar's exact winning percentage is uncertain. But among the 22 counties that are wholly within District 8, Salazar would have received 29,531 votes (55%) to Weiser's 24,157 votes (45%). Salazar also prevailed in the 2 counties partially within District 8, Montezuma (1,130 votes (58%) to 807 votes (42%)) and El Paso (23,732 votes (52.6%) to 21,306 votes (47.3%)).

LULAC's Congressional Plan		Commission Staff's Plan	
District	Number of Split Counties	District	Number of Split Counties
1	2	1	2
2	1	2	3
3	2	3	1
4	4	4	6
5	3	5	1
6	4	6	4
7	2	7	3
8	2	8	4

LULAC's proposed District 8 is similarly compact to those proposed by the Commission's staff, and it contains 22 whole counties and just 2 split counties. One of the split counties, Montezuma, is to ensure that Ute Mountain Reservation and the Southern Ute Reservation are not split between congressional districts. Although the city of Colorado Springs is split, this is necessary to prevent the city's Hispanic voters from having their electoral influence diluted. In any event, it is necessary to split El Paso County because its population exceeds the ideal population of a congressional district.

District 8 respects traditional districting criteria; indeed, under the existing congressional plan, Pueblo, southern Colorado, and the mountain communities are contained in the same district. LULAC's proposal preserves those existing ties, while simultaneously remedying the features of the staff proposal that result in Hispanic vote dilution.

V. The Preliminary State Senate Plan Dilutes Hispanic Voters' Electoral Influence.

The Commission staff's preliminary state senate plan dilutes the electoral influence of Hispanic voters in southern Colorado and Pueblo by splitting them between proposed Districts 8 and 9, where white bloc voting would always (District 8) defeat the Hispanic-preferred candidate, or would make the Hispanic-preferred candidate's likelihood of winning tenuous (District 9).

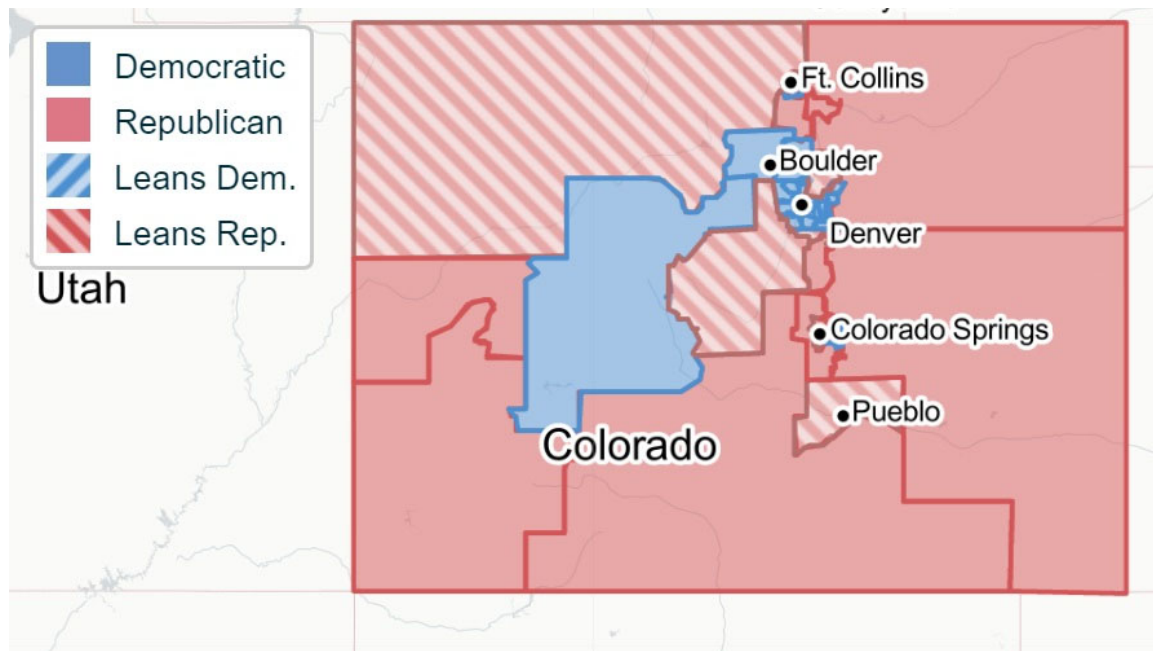
A. White Bloc Voting Would Prevent or Jeopardize the Ability of Hispanic Voters to Influence Electoral Outcomes in Districts 8 and 9.

The Commission staff's reports accompanying the preliminary state senate plan demonstrate that white bloc voting would dilute Hispanic voters' ability to influence electoral results in Districts 8 and 9. In District 8, Hispanic residents constitute 25% of the total population, with large Hispanic communities in Costilla, Conejos, and Alamosa Counties contained in the district. In the district, 36.8% of voters are registered Republicans, and 23.7% are registered Democrats. The 2018 Republican candidate for Attorney General carried District 8 with 59.1% of the vote, and the 2020 Republican Senate

candidate carried the district with 61% of the vote. PlanScore reports that the Republican candidate has over a 99% chance of winning District 8.²²

In District 9, Hispanic residents constitute 44% of the total population. District 9 has more registered Democrats than Republicans (36.9% to 23.6%), but this registration advantage does not translate to equivalent electoral strength. The 2018 Democratic candidate for Attorney General carried District 9 by 51% to 45.3%, and the 2020 Democratic Senate candidate carried the district by only 50% to 47%.

PlanScore’s analysis adds further doubt that District 9 will reliably perform to protect Hispanic voters’ ability to influence electoral outcomes. Excluding any incumbency effect, PlanScore characterizes District 9 as “Leans Republican,” and predicts just a 50% chance that the Hispanic-preferred Democratic candidate would carry the district. PlanScore reports that President Biden carried the district by just 52% of the two-party vote. When the district is recreated (as close as possible, given the split precincts in the Commission staff’s plan) on MGGG’s Districtr program, the data shows that in the 2018 race for U.S. House, the Democratic candidate would have prevailed by just 50.05% to 49.95%. Below is PlanScore’s assessment of the Commission staff’s state senate plan, showing District 9 (the Pueblo-based seat) as “Leans Republican.”

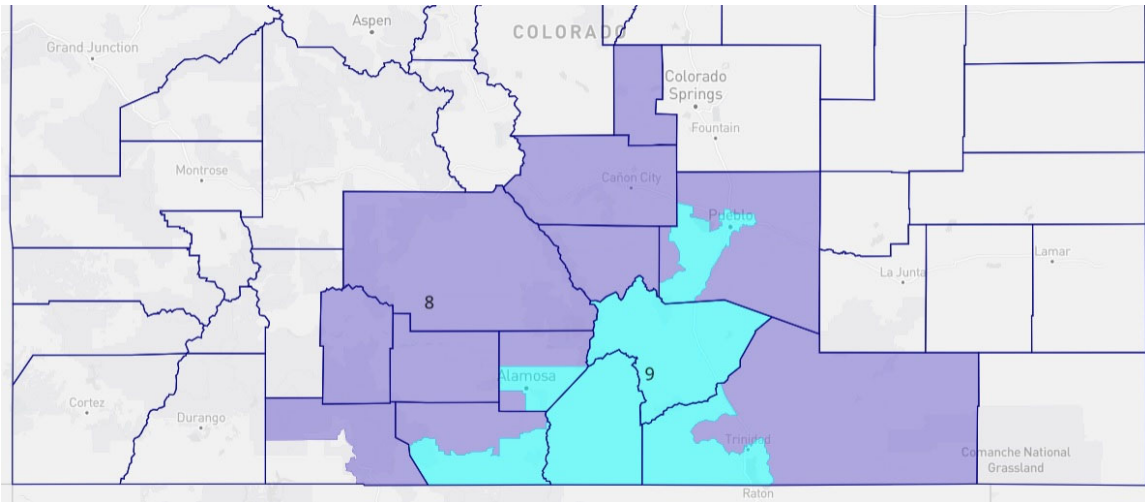


The Commission staff’s preliminary state senate plan results in Hispanic voters in southern Colorado and Pueblo having their ability to influence electoral outcomes diluted.

²² See Ex. 3 (Preliminary State Senate Plan PlanScore Analysis).

B. An Alternative Crossover District Remedies the Dilution of Hispanic Voters' Electoral Influence.

An alternative crossover district can be drawn that remedies this vote dilution. The plan below, “LULAC Senate Plan,” focuses only on Districts 8 and 9, and redraws them so that District 9 will perform to protect the ability of Hispanic voters to influence electoral outcomes. In this map, the collective boundaries of Districts 8 and 9 differ only by removing the Southern Ute Reservation from District 8, to ensure it can be kept whole with the Ute Mountain Reservation in Montezuma County—the staff plan unnecessarily splits the two Reservations. But the internal boundaries of Districts 8 and 9 are altered to cure the vote dilution present in the Commission staff’s preliminary map.²³

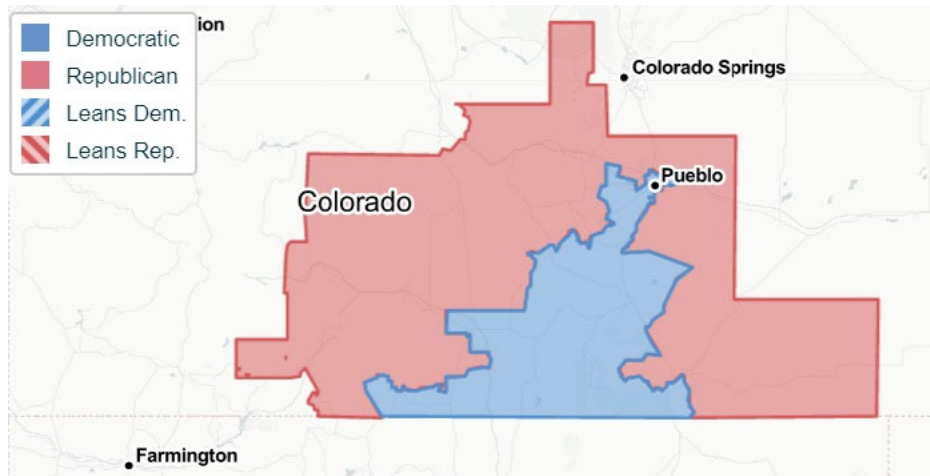


In this plan, District 9’s total population is 47.2% Hispanic, 45.5% white, 6.1% Native American, and 3.5% Black. Its Hispanic CVAP is 44.3%. Below are reconstituted election results for the district, illustrating how it would correct the dilution of Hispanic voters’ ability to influence electoral results present in the Commission staff’s proposed plan.

2020 President		2020 Senate		2018 Governor	
Biden (D)	55.1%	Hickenlooper (D)	54.7%	Polis (D)	56.4%
Trump (R)	42.2%	Gardner (R)	42.3%	Stapleton (R)	38.5%
2018 Atty. Gen.		2018 Sec’y of State		2018 Congress	
Weiser (D)	55.9%	Griswold (D)	60.8%	Composite Dem.	55.9%
Brauchler (R)	40.3%	Williams (R)	39.2%	Composite Rep.	44.4%

²³ The ideal population size for state senate districts is 164,963. LULAC’s proposed District 8 has a total population of 162,855 (-1.28% deviation) and District 9 has a total population of 161,826 (-1.9% deviation). These deviations are well within the permissible 10% range for state legislative seats.

PlanScore’s analysis confirms that LULAC’s proposed District 9 would be likely to effectuate Hispanic voters’ electoral influence. The analysis of District 9 shows that the Hispanic-preferred candidate in that district—the Democratic candidate—would be predicted to have an 80% chance of winning. Below is the PlanScore map of the districts.²⁴



Moreover, Hispanic voters would be able to control the results of the Democratic primary in this district, making it an effective crossover district. In 2018, Hispanic Democrat Carlos Lopez lost state senate District 35 to Republican Cleave Simpson by a 20% margin. In LULAC’s proposed District 9 (setting aside Pueblo, which was outside District 35), Mr. Lopez would have defeated Mr. Simpson 53% to 47%.²⁵ With the city of Pueblo added, itself currently represented by a Hispanic Democrat, Mr. Lopez’s margin of victory would be expected to increase substantially.

The LULAC Senate Plan remedies the Commission staff plan’s dilution of Hispanic voters in southern Colorado and Pueblo, as required by the Colorado Constitution.

VI. The Preliminary State House Plan Dilutes Hispanic Voters’ Electoral Influence.

The Commission staff’s preliminary state house plan also dilutes Hispanic voters’ electoral influence in violation of the Colorado Constitution. In particular, the Commission’s preliminary plan dilutes the electoral influence of the substantial Hispanic community in east Greeley and east Evans in Weld County. Like other regions of the State, Greeley, Evans, and their surrounding area exhibit racially polarized voting, with the

²⁴ Ex. 4 (LULAC Senate Plan PlanScore Report). The partisan effect metrics reported in Exhibit 4 should not be considered because it is not a statewide plan, but rather just two districts.

²⁵ See Colo. Sec’y of State, Election Results & Data, <https://www.sos.state.co.us/pubs/elections/Results/2020/2020GEPrecinctLevelResultsPosted.xlsx>.

precincts with large Hispanic populations favoring Democratic candidates, and surrounding white precincts—particularly the rural precincts included in the Commission staff’s proposal—supporting Republican candidates.²⁶

The Commission staff’s proposed District 64 dilutes Hispanic voters’ ability to influence electoral outcomes by excluding from the district white crossover voters around the University of Northern Colorado and the North Colorado Medical Center in the city of Greeley, and including instead rural white voters to the east of Greeley who bloc vote against Hispanic-preferred candidates.²⁷ The Commission staff’s proposal is particularly alarming because it destroys an existing crossover district that currently performs to elect the Hispanic-preferred candidate (House District 50).²⁸

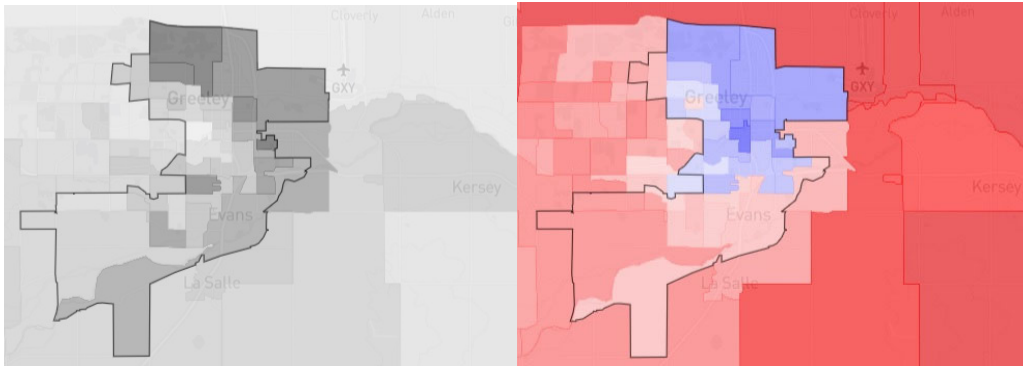
Below are images of the demographic and election data for existing District 50, as well as the Commission staff’s proposed District 64.

²⁶ Although there are not homogenous Hispanic precincts in Weld County, the trend is evident from the election results; Weld County precincts with large Hispanic populations favor Democrats. For example, Weld County precinct 105 has a Hispanic CVAP of 57.4%, and Biden received 61.6% of the vote. Weld County precinct 106 has a Hispanic CVAP of 53.4%, and Biden received 56.6% of the vote. By contrast, the rural precincts the Commission staff has proposed to add to District 64 demonstrate clear white bloc voting in favor of Republican candidates. For example, Weld County precinct 120 has a white CVAP of 86.7%, and former Trump received 80% of the vote. Weld County precinct 152 has a white CVAP of 85.2%, and Trump received 81% of the vote. Weld County precinct 316 has a white CVAP of 72.6%, and Trump received 79.4% of the vote. Weld County precinct 320 has a white CVAP of 70.2%, and Trump received 77.8% of the vote. Weld County precinct 326 has a white CVAP of 66.1%, and Trump received 60.4% of the vote. Weld County precinct 331 has a white CVAP of 61.9%, and Trump received 62.1% of the vote.

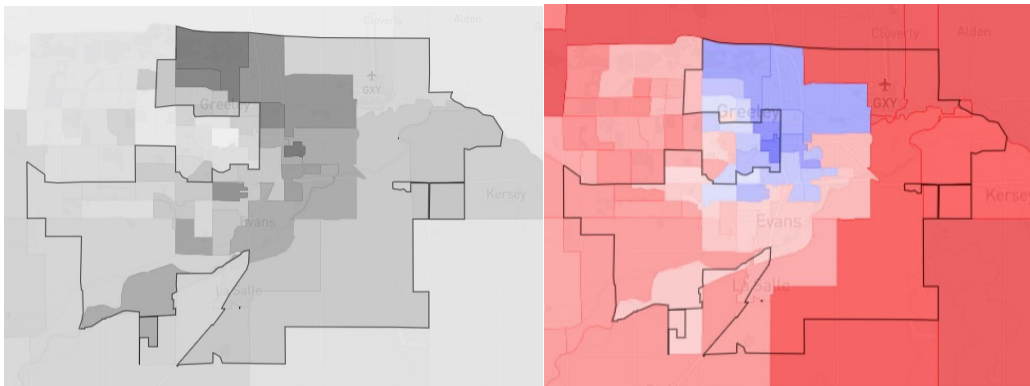
²⁷ In particular, the Commission staff’s proposed District 64 excludes white crossover voters in Weld County precincts 113, 110, 317, 247, 220, 217, 109, and surrounding areas in the city of Greeley, and includes instead white voters in surrounding rural areas (e.g., Weld County precincts 120, 152, 316, 320, 326, and 331) who bloc vote in opposition to Hispanic-preferred candidates.

²⁸ House district 50 is represented by a Democratic representative, and the Democratic candidates have won all recent statewide elections (2020 President, 2020 Senate, 2018 Governor, 2018 Senate, 2018 Secretary of State, etc.).

Current District 50



Commission Staff's Proposed District 64

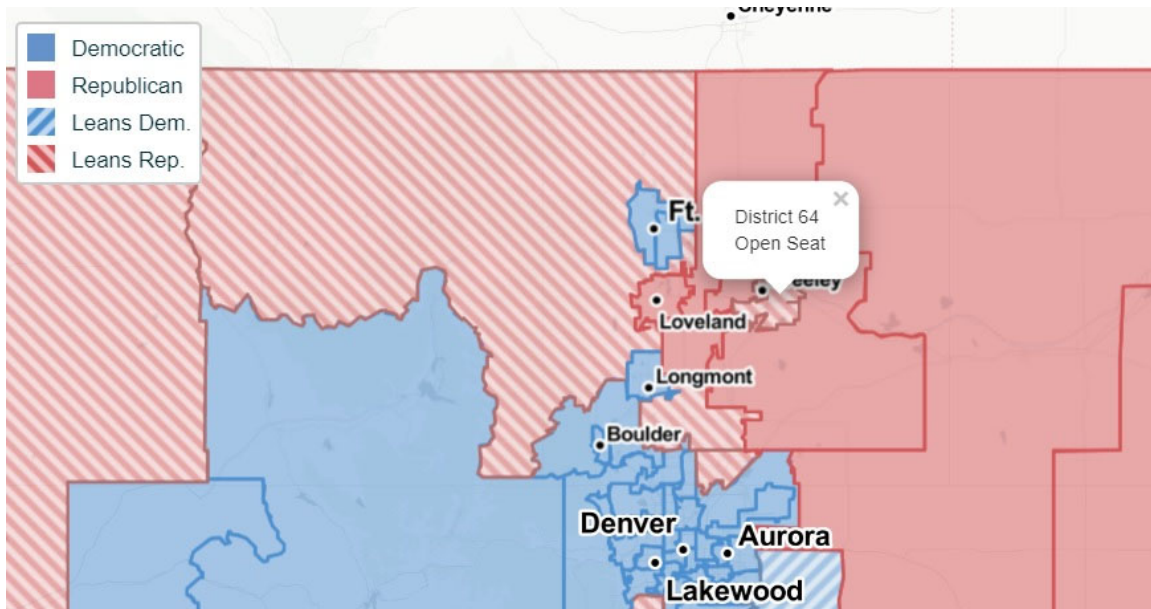


As these images illustrate, the Commission staff's proposal cleaves the university and hospital neighborhoods in the city of Greeley from existing District 50, where white voters cross over to support Hispanic-preferred candidates, and replaces those neighborhoods with rural areas dominated by white voters who bloc vote against Hispanic-preferred candidates.

Not only does this violate the Colorado Constitution's prohibition on diluting the ability of minority voters' to influence electoral outcomes, but it also violates the Fourteenth and Fifteenth Amendments by the intentional elimination of an existing performing crossover district. *See Bartlett*, 556 U.S. at 24 (noting that "if there were a showing that a State intentionally drew district lines in order to destroy otherwise effective crossover districts, that would raise serious questions under both the Fourteenth and Fifteenth Amendments.").

As the PlanScore analysis demonstrates, by excluding white crossover voters in the city of Greeley and instead including precincts dominated by bloc-voting rural white voters, the Commission staff's proposed District 64 would dilute Hispanic voters' electoral influence. The Commission staff's data shows that the Democratic candidates for Attorney General (2018) and Senate (2020) would have lost District 64. PlanScore reports that District 64 would "Lean Republican," with a 70% chance that the Republican candidate

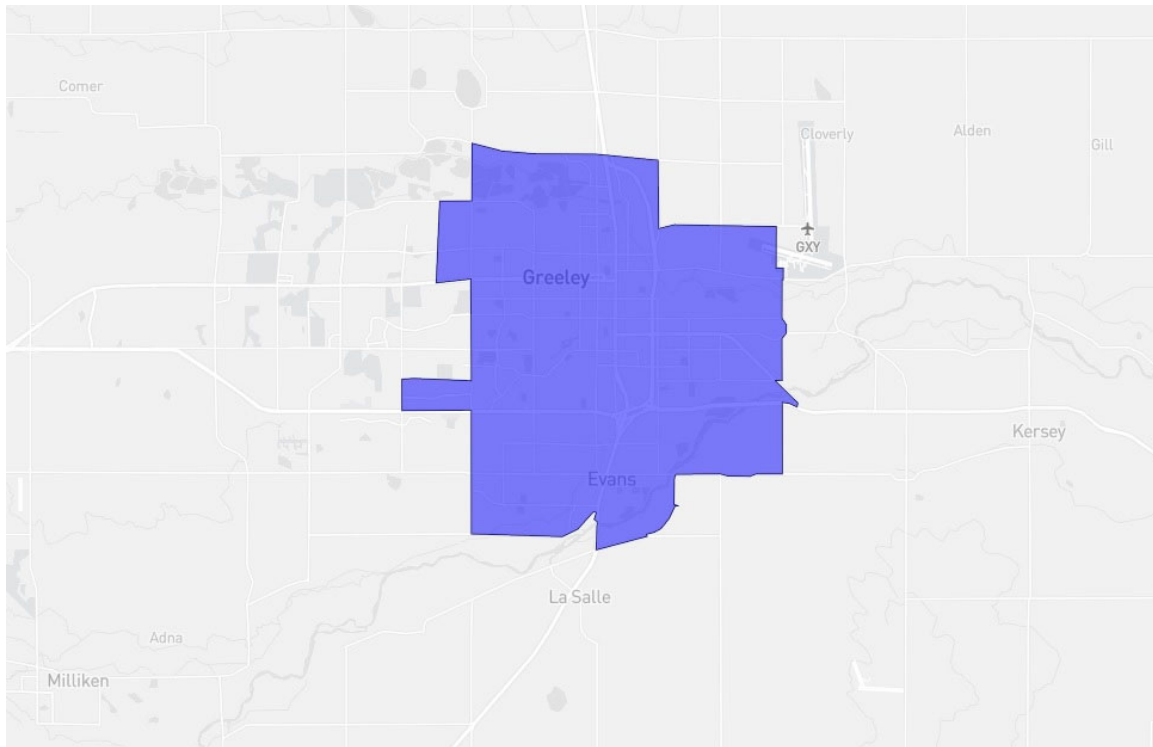
would prevail, at an estimated vote margin of 52% Republican to 48% Democratic.²⁹ Below is the PlanScore map of District 64.



By contrast, a performing crossover district can be drawn with a Hispanic total population of 49.5% and a Hispanic CVAP of 34.7%. Although the Commission staff reports a similar Hispanic total population in their proposed district 64 (48%), the staff proposal pairs them with bloc-voting rural white voters. *Cf. Perez v. Abbott*, 253 F. Supp. 3d 864, 884-55 (W.D. Tex. 2017) (invalidating plan that created the “façade of a Latino district” by including non-performing precincts with Hispanic voters and excluding performing precincts). Below is an example alternative district that would perform to elect Hispanic-preferred candidates:³⁰

²⁹ See Ex. 5 (Commission Staff’s Preliminary State House Plan PlanScore Report).

³⁰ The ideal population for state house districts is 88,826. LULAC’s proposed district has a total population of 87,505 (-1.49% deviation), well within the 10% permissible range for state legislative districts.



The Hispanic-preferred candidates would have prevailed in this district in all recent statewide elections. President Biden would have prevailed by 52% to 44.6%, Senator Hickenlooper would have prevailed by 51.3% to 45.6%, Attorney General Weiser would have prevailed by 50.1% to 45.2%, and Governor Polis would have prevailed by 50.2% to 43.7%.

Moreover, LULAC's proposed district is more compact than the Commission staff's proposed District 64. District 64 has a Reock score of .52 and a Polsby-Popper score of .2. LULAC's proposed district has a Reock score of .63 and a Polsby-Popper score of .46.

The Commission staff's proposed District 64 results in the dilution of Hispanic voters' electoral influence in violation of the Colorado Constitution, and potentially violates the Fourteenth and Fifteenth Amendments. The Commission should remedy this violation by adopting LULAC's proposed district.³¹

VII. The Commission Staff's Analysis of Denver-Area State Legislative Districts Is Flawed.

The Commission staff's memo accompanying its state house and state senate districts concludes that because white voters in the Denver area also prefer Democratic

³¹ Like the Commission staff's proposed state senate plan, the proposed state house plan also splits the Ute Mountain Reservation from the Southern Ute Reservation. The Commission should remedy this by adding the Ute Mountain Reservation to District 52.

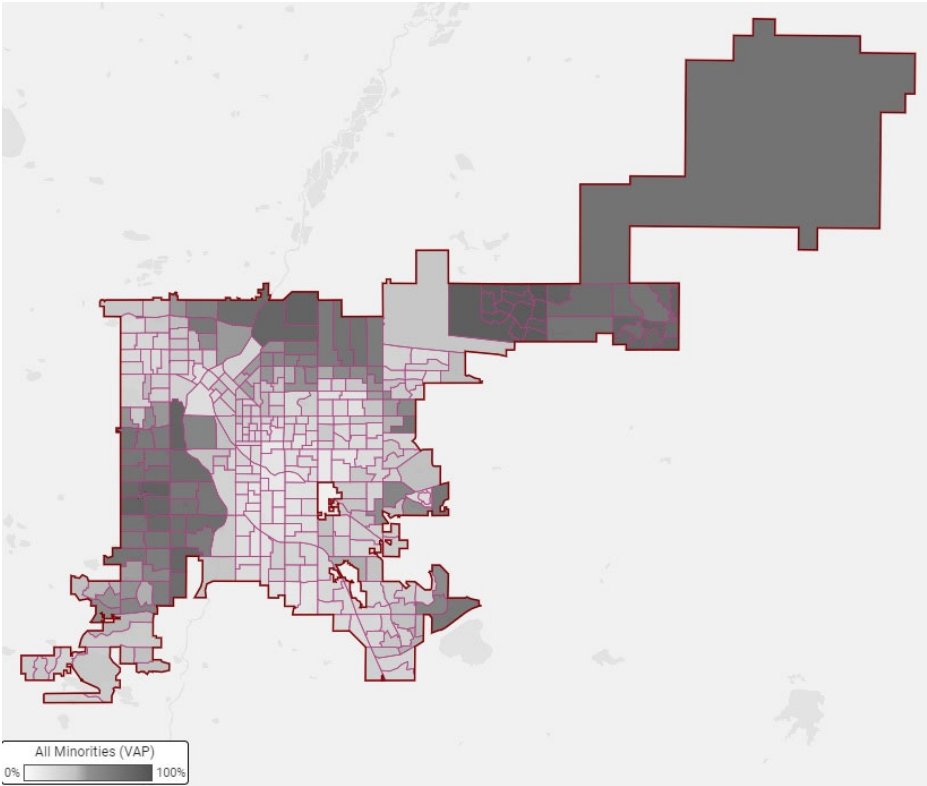
candidates, there are no legal obligations triggered to ensure minority voting rights. But this analysis is insufficient. The Colorado Constitution is broader in its protections than the Voting Rights Act, as explained above, and requires the drawing of districts with less than a majority of minority voters if necessary to prevent vote dilution. In particular, the Commission staff's analysis is inadequate because it fails to consider racially polarized voting within Democratic primaries.

At the June 23, 2021 Commission meeting, the presenting staff member responded to a question from the public about primary elections in Denver by suggesting that there were not probative primaries to suggest racially polarized voting. But several recent Democratic primary elections in Denver County featuring Hispanic and white candidates demonstrated significant racially polarized voting. As the maps below illustrate, the 2018 Democratic primary for Attorney General featured racially polarized voting in Denver County. The first map illustrates, via shading, the Denver County precincts with substantial minority populations. The second map shows the results of the 2018 Attorney General primary, with yellow shading for Salazar, the Hispanic-preferred Democratic candidate, and green for Weiser, the white-preferred Democratic candidate.³² The results—and the intensity of those results—in comparison to the demographic map illustrate clear racially polarized voting.

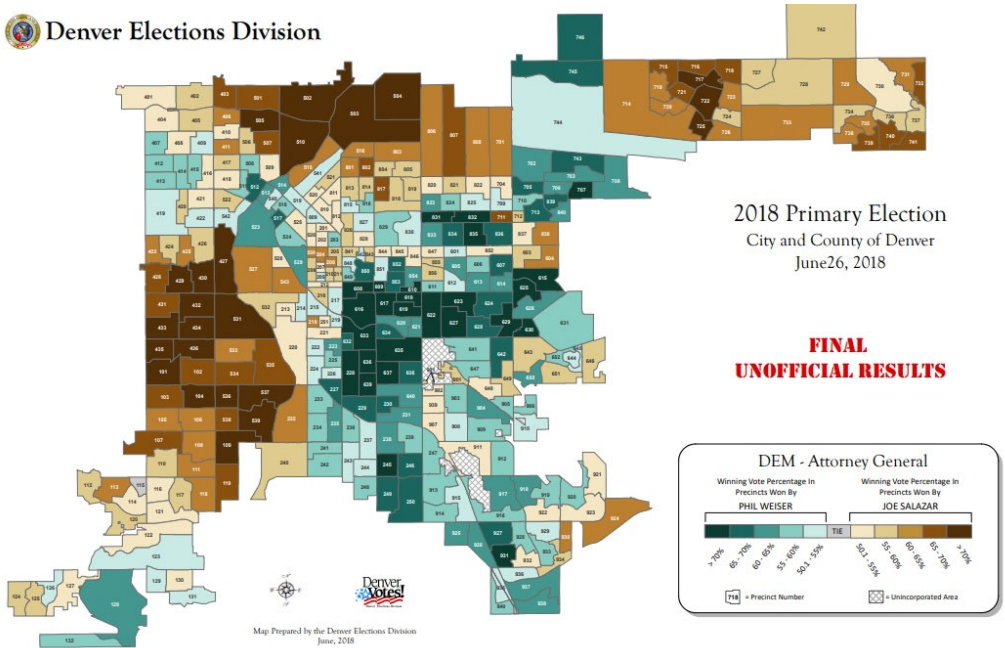
[IMAGES ON NEXT PAGE]

³² The demographic map was obtained from DRA. The election results map is available at https://www.denvergov.org/media/denverapps/electionresults/maps/20180626/F--6-28-2018-Final_Unofficial_Results/Final_Unofficial_Results_Dem_Attorney_General.pdf.

Denver County Demographic Map



Denver County 2018 Attorney General Democratic Primary Results Map



Moreover, the 2018 Democratic primary elections for state house District 5 and state senate District 32 also exhibited racially polarized voting.³³ The Commission staff's proposed state house and senate plans make a number of changes in the Denver metro area that reduce the number of districts with sizeable minority populations. In light of the racially polarized voting exhibited in Democratic primaries in the Denver area, the Commission should conduct a full analysis to ensure that minority voters' ability to influence election outcomes is not being diluted in the Commission staff's proposed state house and senate districts located in the Denver area. At the very least, this should involve a reconstituted election results analysis of the 2018 attorney general primary election under any proposed district lines to ensure that minority vote dilution would not occur.

* * *

Colorado law requires the Commission to draw plans that meet a standard of protection for minority voters higher than the bare minimum required by federal law. The Commission staff's preliminary proposals fail Colorado's standard. The Commission should adopt districts consistent with LULAC's proposals to ensure that the electoral influence of Colorado's Hispanic voters is not diluted.

August 17, 2021

Submitted by,

/s/ Mark P. Gaber

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(202) 736-2200
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³³ See House District 5 Results at https://www.denvergov.org/media/denverapps/electionresults/maps/20180626/F--6-28-2018-Final_Unofficial_Results/Final_Unofficial_Results_Dem_Colo_House_Dist_5.pdf; Senate District 32 Results at https://www.denvergov.org/media/denverapps/electionresults/maps/20180626/F--6-28-2018-Final_Unofficial_Results/Final_Unofficial_Results_Dem_Colo_Senate_Dist_32.pdf.

EXHIBIT 1

Staff Congressional: PlanScore Analysis



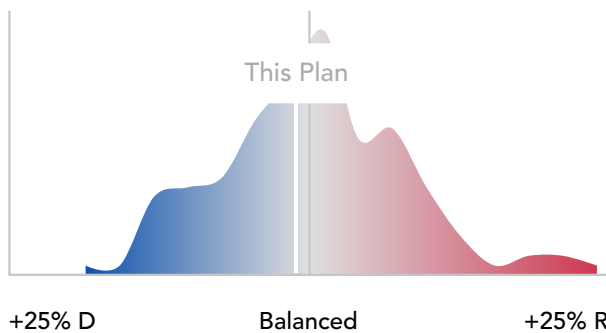
CO_Congressional_Districts_Prelim_Final_SHP (1).zip

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Colorado U.S. House plan

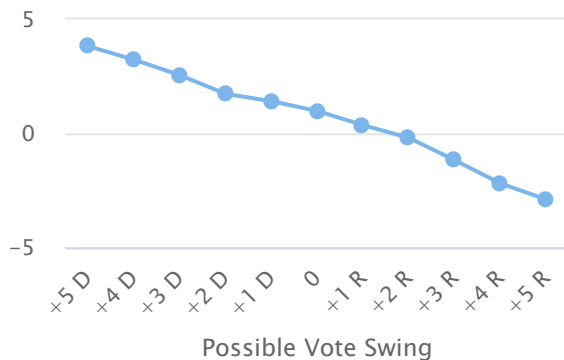
PlanScore bases its scores on predicted precinct-level votes for each office (State House, State Senate, and U.S. House) built from past election results and U.S. Census data. [More information about the predictive model used to score this plan.](#)

Efficiency Gap: 1.0%



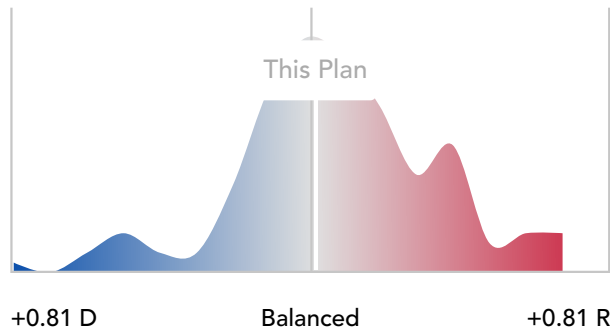
Votes for Democratic candidates are expected to be inefficient at a rate 1.0% lower than votes for Republican candidates. The expected gap favors Democrats in 60% of predicted scenarios. [Learn more](#) ➤

Sensitivity Testing



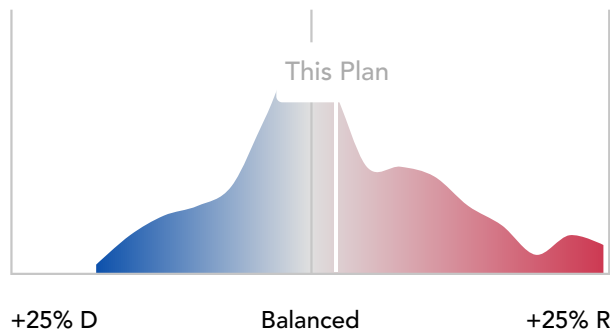
Sensitivity testing shows us a plan's expected efficiency gap given a range of possible vote swings. It lets us evaluate the durability of a plan's skew.

Declination: 0.01



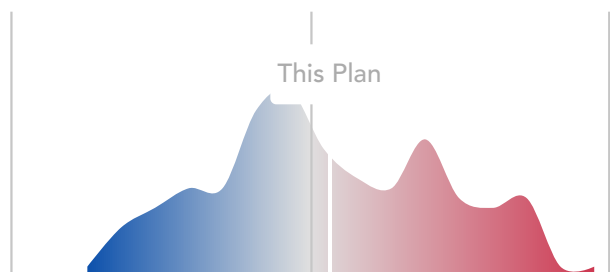
The Democrats' mean vote share in districts they won was 3.9% higher than the Republicans' mean vote share in districts they won. This, along with the relative fraction of seats won by each party, leads to a declination that favors Republicans in 53% of predicted scenarios. [Learn more](#) ➤

Partisan Bias: 2.2%



Republicans would be expected to win 2.2% extra seats in a hypothetical, perfectly tied election. The expected bias favors Republicans in 71% of predicted scenarios. [Learn more](#) ➤

Mean-Median Difference: 0.8%

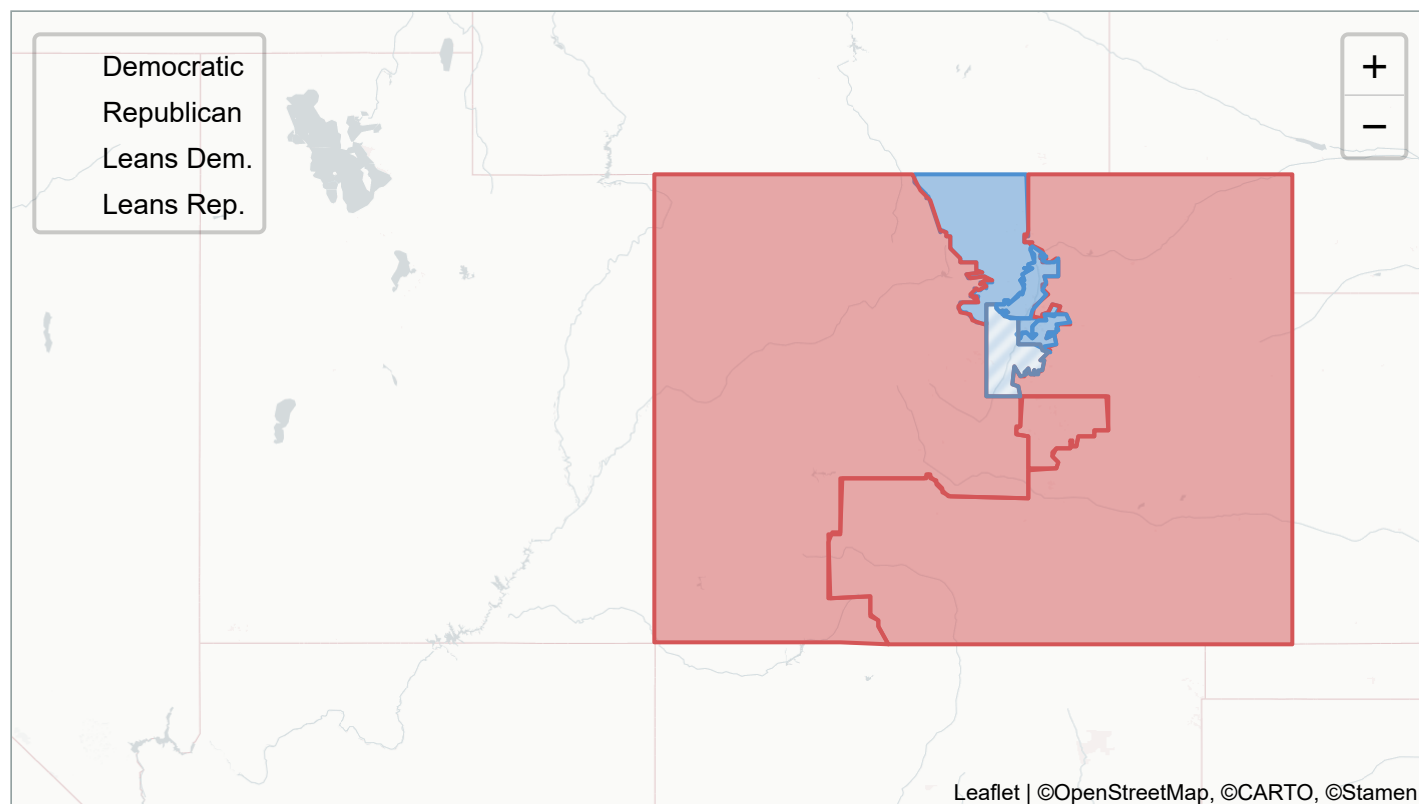


+12% D

Balanced

+12% R

The median Republican vote share is expected to be 0.8% higher than the mean Republican vote share. The expected difference favors Republicans in 64% of predicted scenarios. [Learn more](#) ▶



District	Candidate Scenario	Pop. 2020	Black Pop. 2019	Hispanic Pop. 2019	Chance of Democratic Win	Predicted Vote Shares	Biden (D) 2020	Trump (R) 2020
1	Open Seat	705,622	75,386	206,806	>99%	78% D / 22% R	310,464	68,906
2	Open Seat	730,270	11,661	90,646	>99%	63% D / 37% R	295,472	146,960
3	Open Seat	716,414	11,136	110,219	13%	45% D / 55% R	194,697	223,082
4	Open Seat	719,563	18,931	224,994	<1%	38% D / 62% R	147,449	224,736
5	Open Seat	728,356	60,704	119,132	6%	43% D / 57% R	161,615	201,688
6	Open Seat	719,514	89,288	146,023	99%	60% D / 40% R	227,772	134,859
7	Open Seat	724,141	13,872	92,120	73%	53% D / 47% R	248,542	204,711
8	Open Seat	729,822	19,078	218,222	87%	55% D / 45% R	218,336	159,663

Download raw data as tab-delimited text.



PlanScore is a project of Campaign Legal Center.



EXHIBIT 2

LULAC Congressional: PlanScore Analysis



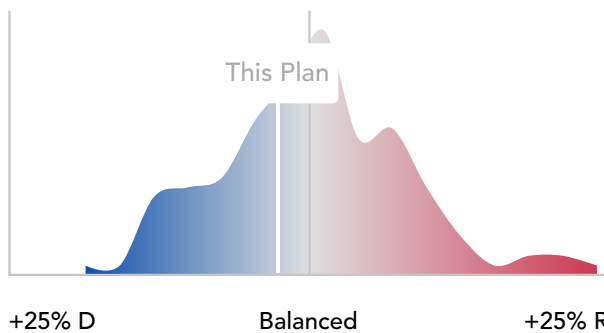
district-shapes (20).geojson

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Colorado U.S. House plan

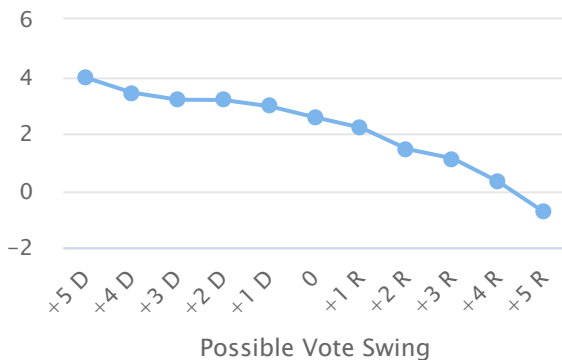
PlanScore bases its scores on predicted precinct-level votes for each office (State House, State Senate, and U.S. House) built from past election results and U.S. Census data. [More information about the predictive model used to score this plan.](#)

Efficiency Gap: 2.6%



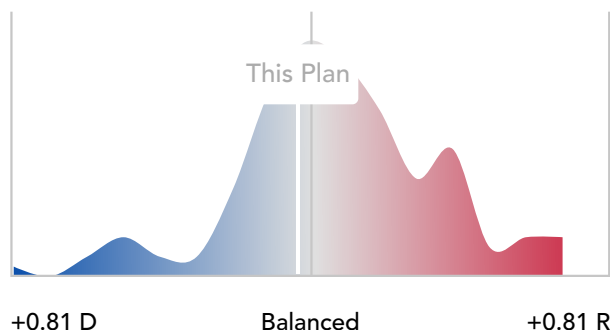
Votes for Democratic candidates are expected to be inefficient at a rate 2.6% lower than votes for Republican candidates. The expected gap favors Democrats in 66% of predicted scenarios. [Learn more](#) ➤

Sensitivity Testing



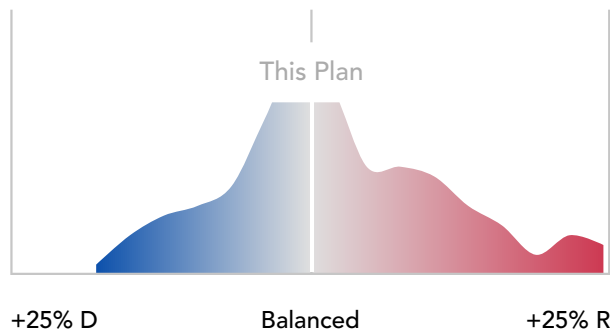
Sensitivity testing shows us a plan's expected efficiency gap given a range of possible vote swings. It lets us evaluate the durability of a plan's skew.

Declination: 0.03



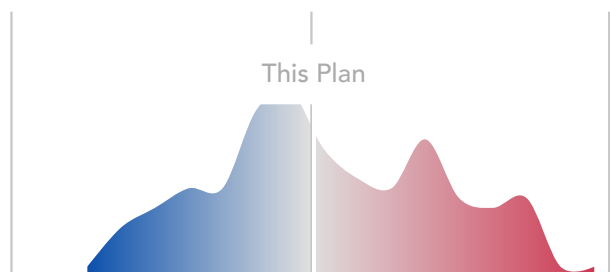
The Republicans' mean vote share in districts they won was 4.1% higher than the Democrats' mean vote share in districts they won. This, along with the relative fraction of seats won by each party, leads to a declination that favors Republicans in 57% of predicted scenarios. [Learn more](#) ➤

Partisan Bias: 0.1%



Republicans would be expected to win 0.1% extra seats in a hypothetical, perfectly tied election. The expected bias favors Republicans in 68% of predicted scenarios. [Learn more](#) ➤

Mean-Median Difference: 0.1%

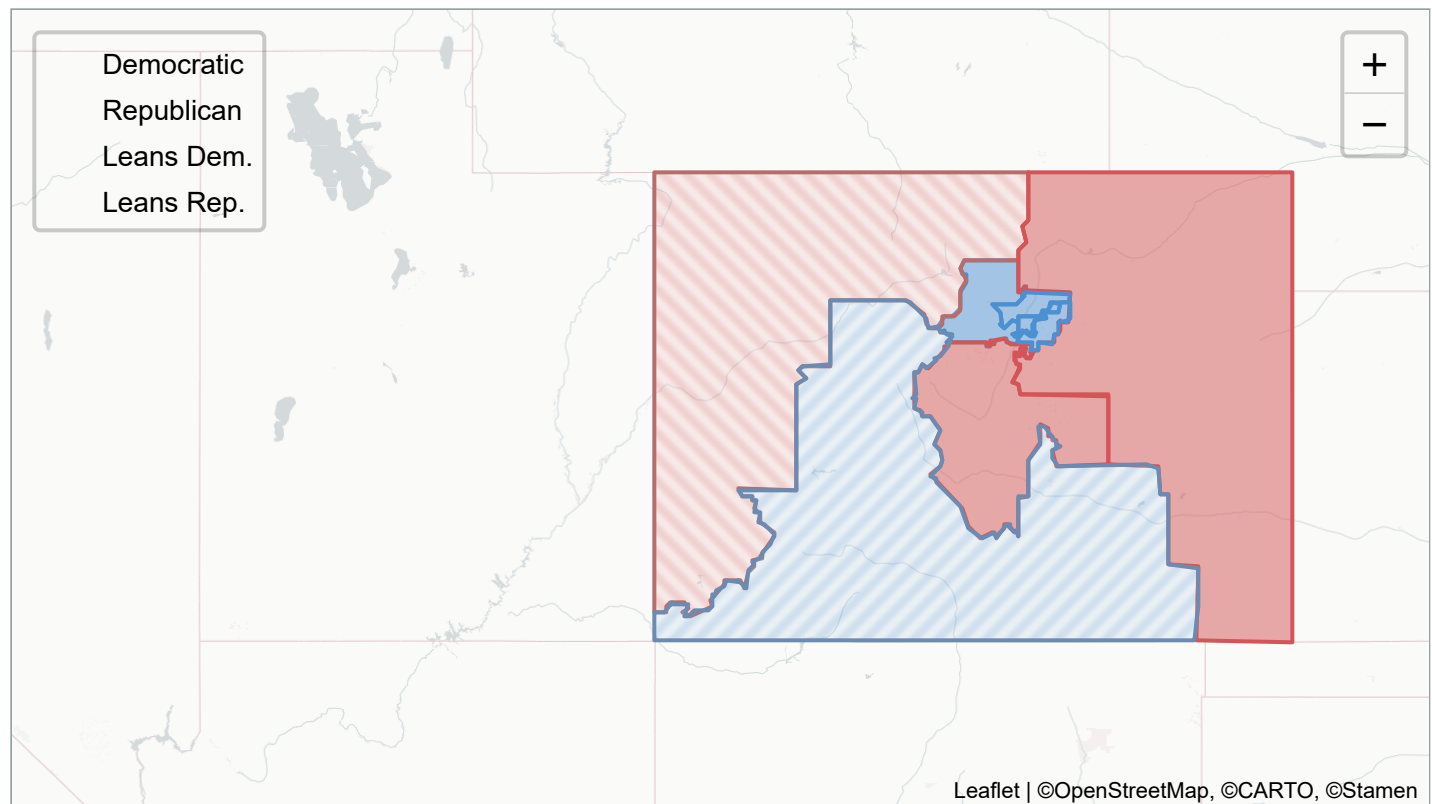


+12% D

Balanced

+12% R

The median Republican vote share is expected to be 0.1% higher than the mean Republican vote share. The expected difference favors Republicans in 53% of predicted scenarios. [Learn more](#) >



District	Candidate Scenario	Pop. 2020	Black Pop. 2019	Hispanic Pop. 2019	Chance of Democratic Win	Predicted Vote Shares	Biden (D) 2020	Trump (R) 2020
1	Open Seat	721,715	75,976	211,810	>99%	77% D / 23% R	316,098	72,298
2	Open Seat	721,736	12,964	104,828	>99%	65% D / 35% R	304,872	140,902
3	Open Seat	721,708	10,792	100,279	25%	47% D / 53% R	205,603	214,373
4	Open Seat	721,715	13,639	141,456	<1%	37% D / 63% R	149,016	246,081
5	Open Seat	721,708	34,147	79,905	3%	41% D / 59% R	179,699	243,706
6	Open Seat	721,715	90,686	146,992	99%	60% D / 40% R	229,908	135,896
7	Open Seat	721,691	19,664	214,435	94%	57% D / 43% R	221,394	151,185
8	Open Seat	721,714	42,188	208,459	74%	53% D / 47% R	197,758	160,162

Download raw data as tab-delimited text.



PlanScore is a project of Campaign Legal Center.



EXHIBIT 3

Staff State Senate: PlanScore Analysis



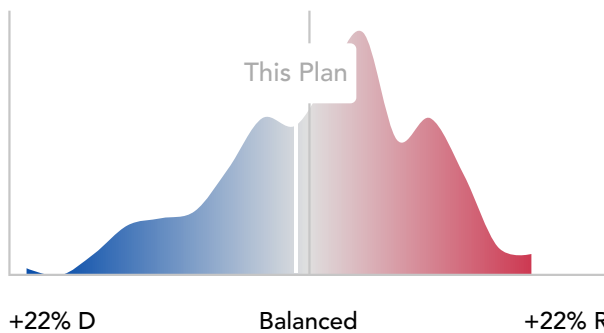
CO_Senate_Districts_Prelim_Final (3).zip

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Colorado State Senate plan

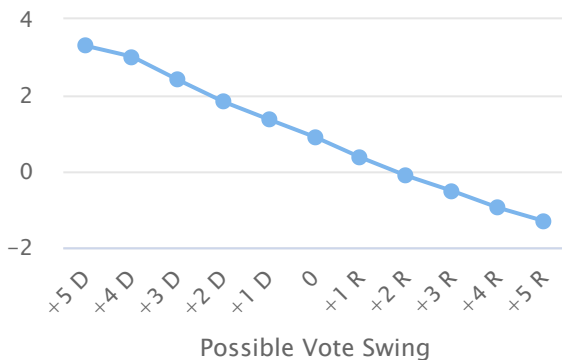
PlanScore bases its scores on predicted precinct-level votes for each office (State House, State Senate, and U.S. House) built from past election results and U.S. Census data. [More information about the predictive model used to score this plan.](#)

Efficiency Gap: 0.9%



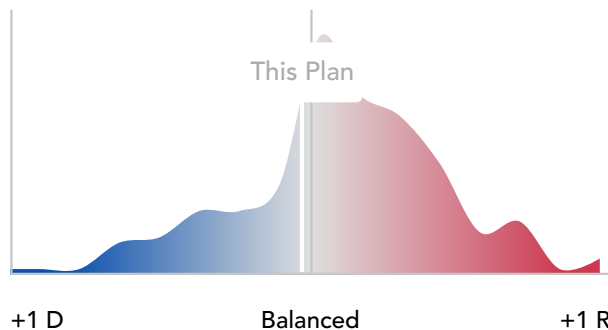
Votes for Democratic candidates are expected to be inefficient at a rate 0.9% lower than votes for Republican candidates. The expected gap favors Democrats in 59% of predicted scenarios. [Learn more](#) ➤

Sensitivity Testing



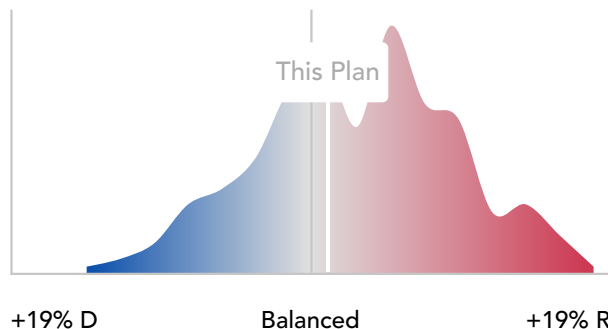
Sensitivity testing shows us a plan's expected efficiency gap given a range of possible vote swings. It lets us evaluate the durability of a plan's skew.

Declination: 0.03



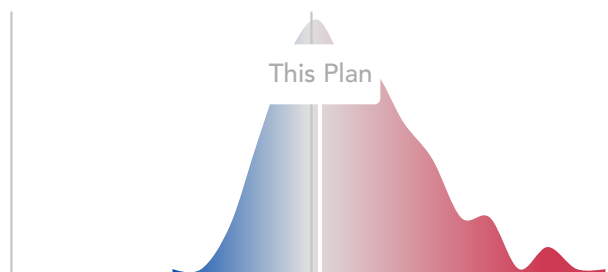
The Republicans' mean vote share in districts they won was 6.1% higher than the Democrats' mean vote share in districts they won. This, along with the relative fraction of seats won by each party, leads to a declination that favors Republicans in 56% of predicted scenarios. [Learn more](#) >

Partisan Bias: 1.1%



Republicans would be expected to win 1.1% extra seats in a hypothetical, perfectly tied election. The expected bias favors Republicans in 62% of predicted scenarios. [Learn more](#) >

Mean-Median Difference: 0.4%

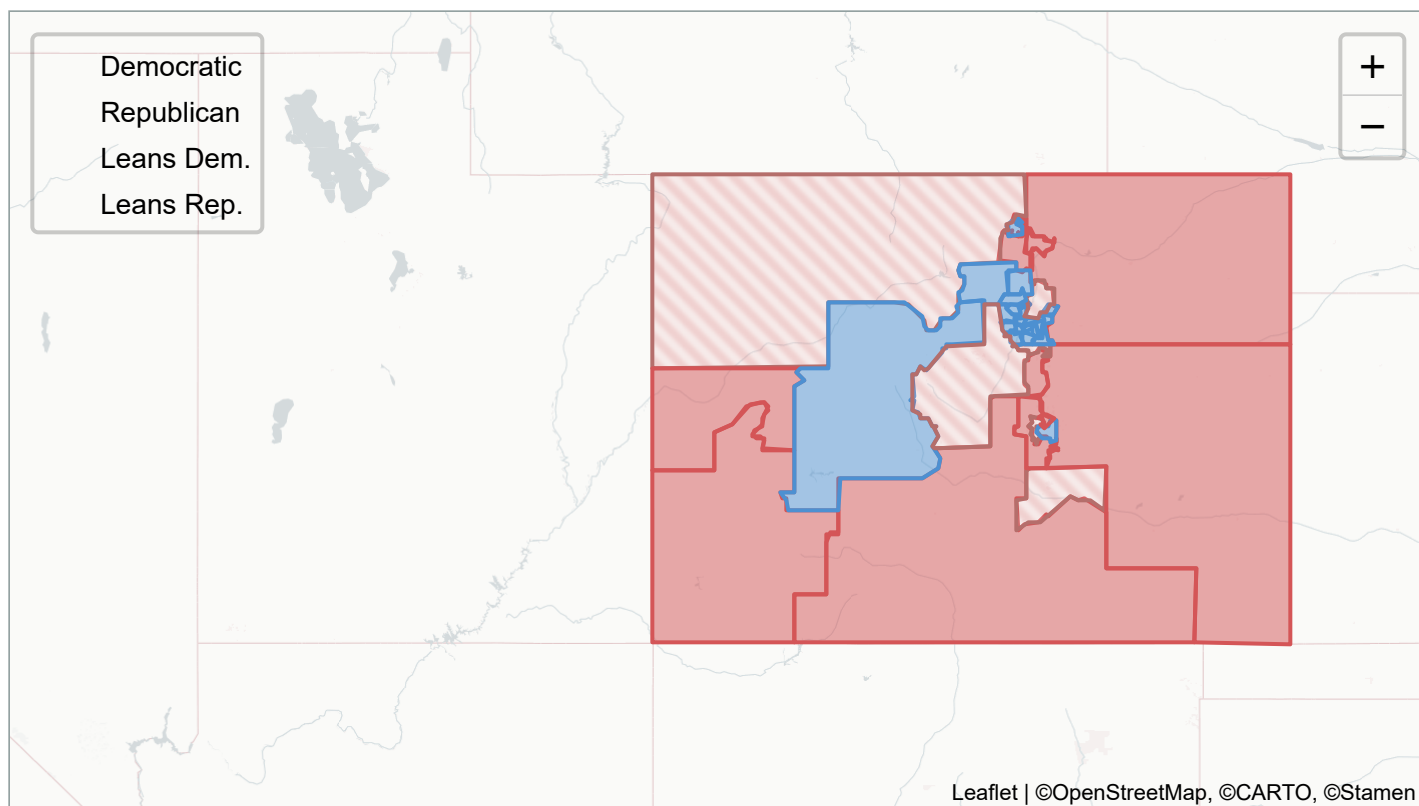


+13% D

Balanced

+13% R

The median Republican vote share is expected to be 0.4% higher than the mean Republican vote share. The expected difference favors Republicans in 62% of predicted scenarios. [Learn more](#) ➤



District	Candidate Scenario	Pop. 2020	Black Pop. 2019	Hispanic Pop. 2019	Chance of Democratic Win	Predicted Vote Shares	Biden (D) 2020	Trump (R) 2020
1	Open Seat	165,749	5,296	38,864	<1%	27% D / 73% R	24,729	65,138
2	Open Seat	163,525	3,936	54,695	7%	43% D / 57% R	32,422	39,806
3	Open Seat	168,916	1,481	19,779	11%	44% D / 56% R	48,166	56,210
4	Open Seat	168,361	4,395	19,185	>99%	67% D / 33% R	66,498	28,222
5	Open Seat	165,456	2,097	25,947	28%	47% D / 53% R	47,644	49,183
6	Open Seat	164,496	1,999	22,572	<1%	35% D / 65% R	34,156	60,523
7	Open Seat	163,334	1,581	24,216	9%	44% D / 56% R	44,564	54,119
8	Open Seat	167,270	4,299	42,527	<1%	37% D / 63% R	36,374	58,807
9	Open Seat	160,087	5,414	69,422	50%	50% D / 50% R	42,194	38,692

District	Candidate Scenario	Pop. 2020	Black Pop. 2019	Hispanic Pop. 2019	Chance of Democratic Win	Predicted Vote Shares	Ex. 3	
							Biden (D) 2020	Trump (R) 2020
10	Open Seat	161,064	5,414	29,161	<1%	26% D / 74% R	25,033	69,432
11	Open Seat	172,834	13,926	24,468	1%	39% D / 61% R	33,881	49,557
12	Open Seat	159,188	8,908	21,285	28%	47% D / 53% R	42,212	43,147
13	Open Seat	171,161	23,977	46,494	77%	53% D / 47% R	39,632	31,705
14	Open Seat	161,359	10,668	20,129	3%	41% D / 59% R	35,354	48,199
15	Open Seat	165,576	2,763	13,027	3%	41% D / 59% R	43,435	59,113
16	Open Seat	167,169	3,920	13,576	46%	49% D / 51% R	53,365	50,538
17	Open Seat	169,928	17,649	21,523	87%	55% D / 45% R	53,612	39,017
18	Open Seat	162,247	5,637	13,893	99%	61% D / 39% R	66,322	37,170
19	Open Seat	160,049	3,533	27,598	87%	55% D / 45% R	55,421	40,526
20	Open Seat	161,767	3,693	36,266	>99%	62% D / 38% R	62,744	33,667
21	Open Seat	158,488	7,970	88,049	>99%	76% D / 24% R	58,539	14,708
22	Open Seat	168,094	15,429	20,710	>99%	76% D / 24% R	81,652	20,302
23	Open Seat	167,337	35,085	46,612	>99%	68% D / 32% R	50,822	19,872
24	Open Seat	163,964	33,500	54,337	>99%	66% D / 34% R	43,393	19,398
25	Open Seat	171,350	37,226	56,299	>99%	82% D / 18% R	70,535	10,907
26	Open Seat	148,216	8,585	34,118	>99%	81% D / 19% R	75,836	13,304
27	Open Seat	170,622	3,120	29,330	97%	59% D / 41% R	60,706	38,946
28	Open Seat	171,968	5,162	41,235	97%	58% D / 42% R	57,470	37,001
29	Open Seat	166,167	5,062	77,411	98%	59% D / 41% R	43,071	26,409
30	Open Seat	167,232	5,335	64,616	40%	49% D / 51% R	38,321	37,075
31	Open Seat	165,073	3,119	20,355	>99%	65% D / 35% R	68,977	31,566
32	Open Seat	167,806	2,178	33,005	96%	58% D / 42% R	58,097	37,182
33	Open Seat	167,806	2,637	14,938	>99%	80% D / 20% R	87,449	16,362

District	Candidate Scenario	Pop. 2020	Black Pop. 2019	Hispanic Pop. 2019	Chance of Democratic Win	Predicted Vote Shares	Biden (D) 2020	Trump (R) 2020
34	Open Seat	163,179	2,625	29,588	>99%	62% D / 38% R	62,630	34,035
35	Open Seat	156,864	2,440	12,933	49%	50% D / 50% R	59,092	54,766

Download raw data as tab-delimited text.



PlanScore is a project of Campaign Legal Center.



EXHIBIT 4

LULAC State Senate: PlanScore Analysis



district-shapes (21).geojson

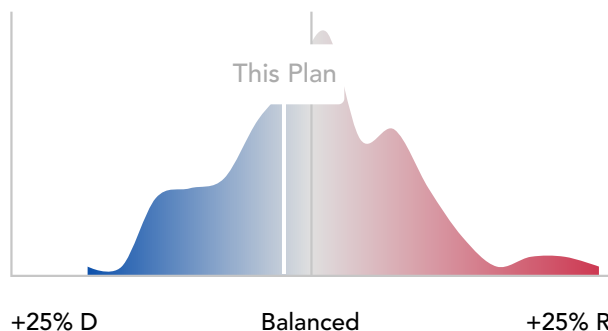
Uploaded: 8/17/2021, 10:09:50 AM

Colorado U.S. House plan

This plan has 2 seats. Fairness metrics for plans with fewer than seven seats should be interpreted with great caution.

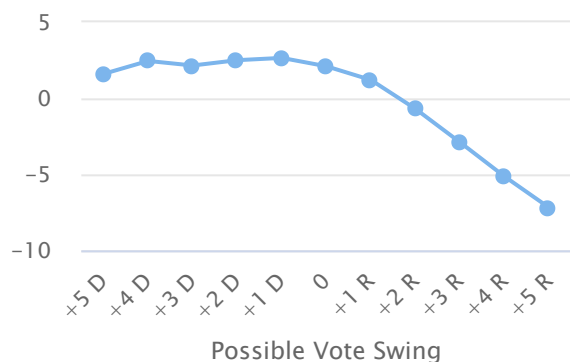
PlanScore bases its scores on predicted precinct-level votes for each office (State House, State Senate, and U.S. House) built from past election results and U.S. Census data. [More information about the predictive model used to score this plan.](#)

Efficiency Gap: 2.1%



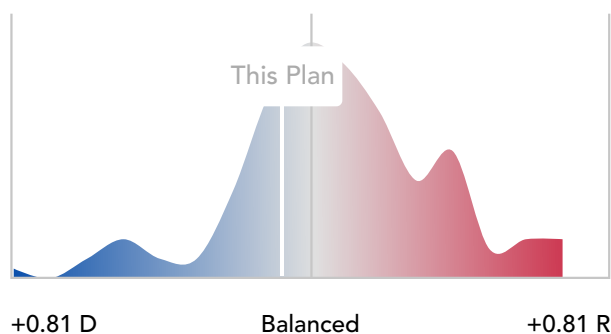
Votes for Democratic candidates are expected to be inefficient at a rate 2.1% lower than votes for Republican candidates. The expected gap favors Democrats in 76% of predicted scenarios. [Learn more](#) ➤

Sensitivity Testing



Sensitivity testing shows us a plan's expected efficiency gap given a range of possible vote swings. It lets us evaluate the durability of a plan's skew.

Declination: 0.07



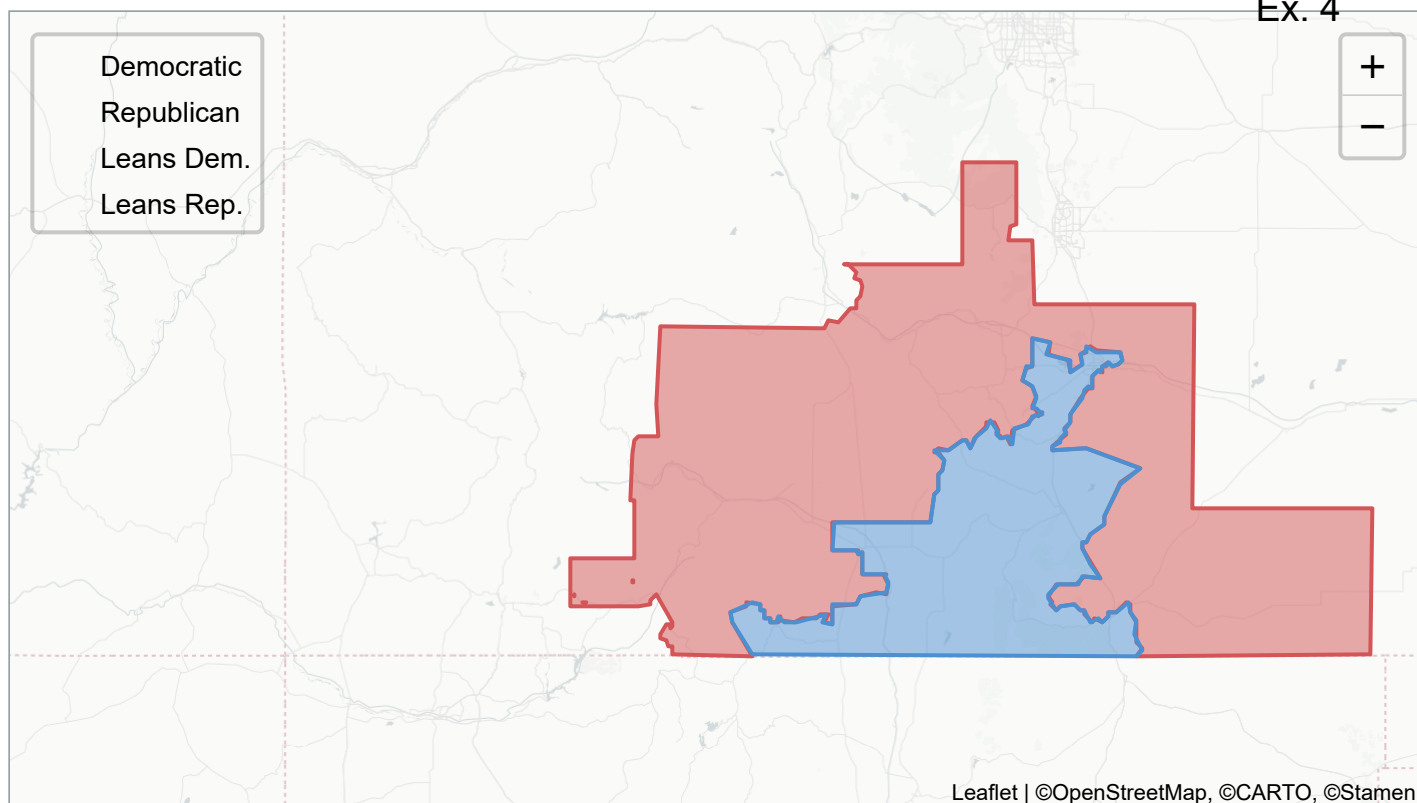
The Republicans' mean vote share in districts they won was 11.9% higher than the Democrats' mean vote share in districts they won. This, along with the relative fraction of seats won by each party, leads to a declination that favors Republicans in 76% of predicted scenarios. [Learn more](#) >

Partisan Bias

The parties' statewide vote shares are 44.0% (Democratic) and 56.0% (Republican) based on the model. Partisan bias is shown only where the parties' statewide vote shares fall between 45% and 55%. Outside this range the metric's assumptions are not plausible.

Mean-Median Difference

The parties' statewide vote shares are 44.0% (Democratic) and 56.0% (Republican) based on the model. The mean-median difference is shown only where the parties' statewide vote shares fall between 45% and 55%. Outside this range the metric's assumptions are not plausible.



District	Candidate Scenario	Pop. 2020	Black Pop. 2019	Hispanic Pop. 2019	Chance of Democratic Win	Predicted Vote Shares	Biden (D) 2020	Trump (R) 2020
1	Open Seat	162,868	4,926	36,402	<1%	34% D / 66% R	32,689	61,459
2	Open Seat	161,813	4,780	75,093	80%	54% D / 46% R	44,572	34,174

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PlanScore is a project of Campaign Legal Center.



EXHIBIT 5

Staff State House: PlanScore Analysis



PlanScore

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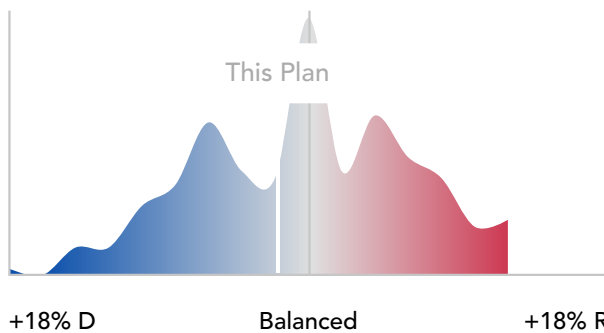
CO_House_Districts_Prelim_Final (3).zip

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Colorado State House plan

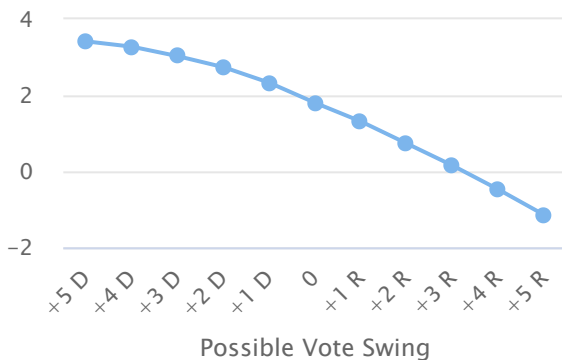
PlanScore bases its scores on predicted precinct-level votes for each office (State House, State Senate, and U.S. House) built from past election results and U.S. Census data. [More information about the predictive model used to score this plan.](#)

Efficiency Gap: 1.8%



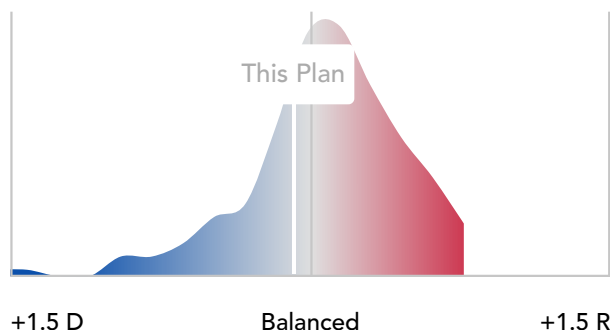
Votes for Democratic candidates are expected to be inefficient at a rate 1.8% lower than votes for Republican candidates. The expected gap favors Democrats in 71% of predicted scenarios. [Learn more](#) ➤

Sensitivity Testing



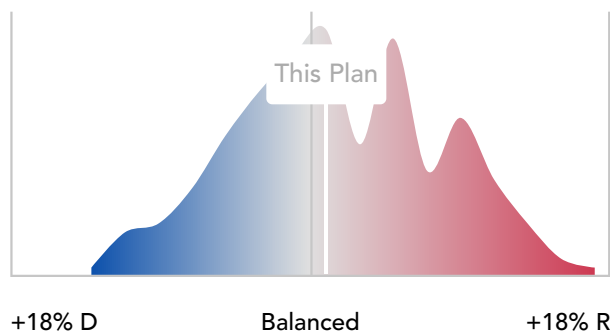
Sensitivity testing shows us a plan's expected efficiency gap given a range of possible vote swings. It lets us evaluate the durability of a plan's skew.

Declination: 0.08



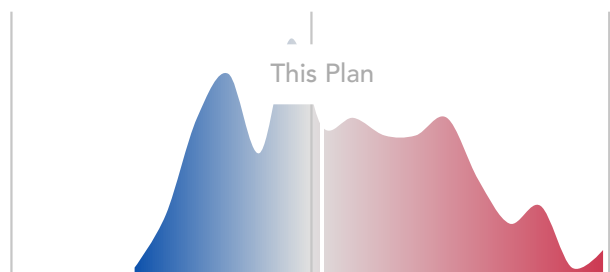
The Republicans' mean vote share in districts they won was 4.1% higher than the Democrats' mean vote share in districts they won. This, along with the relative fraction of seats won by each party, leads to a declination that favors Republicans in 73% of predicted scenarios. [Learn more](#) ➤

Partisan Bias: 1.0%



Republicans would be expected to win 1.0% extra seats in a hypothetical, perfectly tied election. The expected bias favors Republicans in 63% of predicted scenarios. [Learn more](#) ➤

Mean-Median Difference: 0.4%

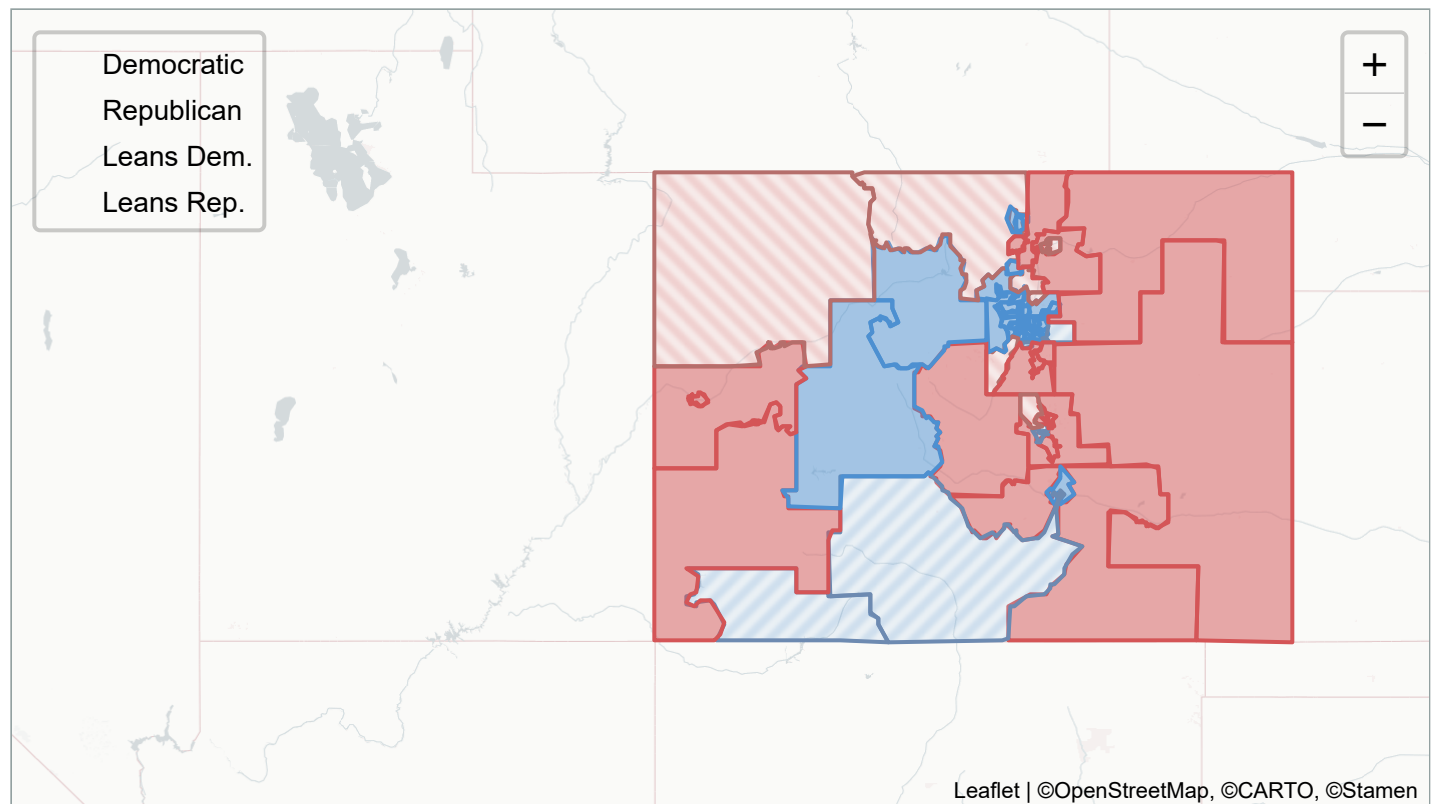


+9% D

Balanced

+9% R

The median Republican vote share is expected to be 0.4% higher than the mean Republican vote share. The expected difference favors Republicans in 63% of predicted scenarios. [Learn more](#) ➤



District	Candidate Scenario	Pop. 2020	Black Pop. 2019	Hispanic Pop. 2019	Chance of Democratic Win	Predicted Vote Shares	Biden (D) 2020	Trump (R) 2020
1	Open Seat	89,806	4,008	52,478	>99%	67% D / 33% R	28,058	12,076
2	Open Seat	85,192	4,248	34,731	>99%	82% D / 18% R	39,158	6,131
3	Open Seat	75,295	3,200	23,452	>99%	80% D / 20% R	40,872	7,756
4	Open Seat	81,762	10,309	20,117	>99%	82% D / 18% R	38,572	5,945
5	Open Seat	93,757	7,020	10,586	>99%	76% D / 24% R	47,760	11,616
6	Open Seat	90,122	14,073	11,301	>99%	82% D / 18% R	46,454	7,377
7	Open Seat	94,584	22,281	42,520	>99%	78% D / 22% R	29,325	6,342
8	Open Seat	91,002	7,072	11,355	>99%	72% D / 28% R	39,409	12,884
9	Open Seat	85,826	2,522	15,557	99%	61% D / 39% R	31,296	17,791

District	Candidate Scenario	Pop. 2020	Black Pop. 2019	Hispanic Pop. 2019	Chance of Democratic Win	Predicted Vote Shares	Biden (D) 2020	Trump (R) 2020
10	Open Seat	86,174	1,652	13,084	90%	56% D / 44% R	32,169	23,116
11	Open Seat	87,484	2,279	25,597	>99%	63% D / 37% R	30,613	15,261
12	Open Seat	90,999	2,076	14,274	>99%	64% D / 36% R	38,247	18,362
13	Open Seat	88,753	1,718	12,507	91%	56% D / 44% R	32,765	23,414
14	Open Seat	89,904	2,224	52,023	>99%	64% D / 36% R	22,290	10,873
15	Open Seat	90,002	4,330	38,205	83%	54% D / 46% R	20,203	15,309
16	Open Seat	86,340	17,645	40,299	>99%	72% D / 28% R	19,930	6,352
17	Open Seat	89,316	22,803	30,433	>99%	67% D / 33% R	23,099	9,823
18	Open Seat	89,609	20,596	18,383	>99%	69% D / 31% R	30,053	11,127
19	Open Seat	90,808	12,837	18,187	98%	60% D / 40% R	28,733	16,998
20	Open Seat	88,756	4,423	7,804	95%	57% D / 43% R	33,090	22,030
21	Open Seat	85,434	2,543	8,399	91%	56% D / 44% R	31,996	22,301
22	Open Seat	88,599	1,634	7,327	60%	51% D / 49% R	29,821	26,419
23	Open Seat	87,872	1,291	8,163	40%	49% D / 51% R	29,585	28,550
24	Open Seat	87,901	935	5,572	>99%	64% D / 36% R	41,286	19,954
25	Open Seat	94,301	1,329	11,742	88%	55% D / 45% R	34,270	24,567
26	Open Seat	93,683	3,075	35,804	99%	62% D / 38% R	28,273	15,565
27	Open Seat	89,826	1,959	11,742	99%	61% D / 39% R	34,304	19,924
28	Open Seat	87,854	3,715	24,495	83%	55% D / 45% R	25,383	19,286
29	Open Seat	87,524	2,273	24,400	26%	47% D / 53% R	22,280	23,273
30	Open Seat	91,712	9,043	10,706	71%	52% D / 48% R	27,750	22,928
31	Open Seat	86,990	1,868	7,385	5%	43% D / 57% R	23,782	29,978
32	Open Seat	91,096	995	6,439	2%	40% D / 60% R	22,763	31,790
33	Open Seat	91,293	2,546	8,060	11%	44% D / 56% R	28,287	33,083

District	Candidate Scenario	Pop. 2020	Black Pop. 2019	Hispanic Pop. 2019	Chance of Democratic Win	Predicted Vote Shares	Biden (D) 2020	Trump (R) 2020
34	Open Seat	86,193	2,045	7,761	<1%	32% D / 68% R	17,170	34,713
35	Open Seat	89,820	1,900	14,764	99%	60% D / 40% R	31,712	18,719
36	Open Seat	85,927	1,088	8,577	>99%	77% D / 23% R	47,583	11,074
37	Open Seat	90,186	1,742	8,263	>99%	85% D / 15% R	43,048	4,937
38	Open Seat	88,559	923	16,435	48%	50% D / 50% R	26,590	24,468
39	Open Seat	85,419	1,694	20,621	<1%	37% D / 63% R	17,898	28,898
40	Open Seat	85,748	1,868	16,999	<1%	24% D / 76% R	12,363	39,771
41	Open Seat	83,302	2,616	23,812	<1%	35% D / 65% R	16,091	28,268
42	Open Seat	88,578	5,549	9,546	<1%	32% D / 68% R	17,783	37,356
43	Open Seat	89,827	11,344	19,235	6%	43% D / 57% R	13,651	17,221
44	Open Seat	91,867	9,852	20,751	70%	52% D / 48% R	21,528	17,967
45	Open Seat	90,694	12,779	24,358	70%	53% D / 47% R	21,014	17,218
46	Open Seat	92,057	7,391	14,034	3%	41% D / 59% R	17,973	24,422
47	Open Seat	88,013	4,064	8,027	1%	39% D / 61% R	20,382	29,989
48	Open Seat	91,905	6,399	14,108	6%	44% D / 56% R	23,007	27,961
49	Open Seat	89,162	3,357	8,833	30%	47% D / 53% R	25,634	26,325
50	Open Seat	92,641	3,349	41,198	81%	54% D / 46% R	26,079	20,399
51	Open Seat	84,398	2,140	43,183	65%	52% D / 48% R	21,766	18,613
52	Open Seat	88,507	890	12,136	61%	51% D / 49% R	27,724	24,214
53	Open Seat	88,970	932	14,674	<1%	36% D / 64% R	21,046	35,587
54	Open Seat	89,076	1,058	16,173	98%	61% D / 39% R	35,628	20,199
55	Open Seat	89,505	713	11,977	<1%	31% D / 69% R	15,985	34,357
56	Open Seat	92,186	1,502	14,122	<1%	39% D / 61% R	19,685	29,534
57	Open Seat	88,350	1,093	17,544	35%	48% D / 52% R	25,791	25,510

District	Candidate Scenario	Pop. 2020	Black Pop. 2019	Hispanic Pop. 2019	Chance of Democratic Win	Predicted Vote Shares	Ex. 5	
							Biden (D) 2020	Trump (R) 2020
58	Open Seat	87,610	889	6,177	40%	49% D / 51% R	31,003	29,939
59	Open Seat	94,297	2,687	12,188	>99%	67% D / 33% R	35,240	14,540
60	Open Seat	86,074	1,925	11,073	>99%	66% D / 34% R	35,837	16,344
61	Open Seat	86,882	808	10,295	19%	46% D / 54% R	25,980	28,423
62	Open Seat	91,582	1,520	23,358	>99%	65% D / 35% R	34,765	16,540
63	Open Seat	91,197	589	11,052	<1%	33% D / 67% R	16,993	33,408
64	Open Seat	88,053	2,583	43,307	30%	48% D / 52% R	14,766	14,965
65	Open Seat	87,541	2,247	20,459	<1%	24% D / 76% R	10,758	34,524

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