

**AMENDMENT 36**  
**SELECTION OF PRESIDENTIAL ELECTORS**

1    **Ballot Title:** An amendment to the Colorado constitution concerning popular  
2    proportional selection of presidential electors, and, in connection therewith, creating  
3    procedures for allocating Colorado's electoral votes for president and vice-president of  
4    the United States, based on the proportion of ballots that are cast in this state for each  
5    presidential ticket; making the terms of the proposed amendment effective so that  
6    popular proportional selection of presidential electors applies to the 2004 general  
7    election; setting forth procedures and timelines that govern the certification of election  
8    results and the potential recounting of votes in elections for presidential electors and in  
9    the election on this proposed amendment; granting the Colorado supreme court original  
10   jurisdiction for the adjudication of all contests concerning presidential electors and  
11   requiring that such matters be heard and decided on an expedited basis; and authorizing  
12   the general assembly to enact legislation to change the manner of selecting presidential  
13   electors or any of the procedures contained in this amendment.

14   **Text of Proposal:**

15   *Be it enacted by the People of the State of Colorado:*

16   ARTICLE VII OF THE CONSTITUTION is amended BY THE ADDITION OF A  
17   NEW SECTION, to read:

18   **Section 13. Popular proportional selection of presidential electors.**

19   (1) THE PEOPLE OF THE STATE OF COLORADO HEREBY FIND AND DECLARE THAT:

20           (a) THE UNITED STATES CONSTITUTION DELEGATES TO EACH STATE THE METHOD  
21           OF CHOOSING PRESIDENTIAL ELECTORS WHO ARE CHARGED WITH CASTING VOTES  
22           IN THE ELECTORAL COLLEGE FOR THE OFFICES OF PRESIDENT AND VICE PRESIDENT  
23           OF THE UNITED STATES;

24           (b) THE COLORADO CONSTITUTION RESERVES TO THE PEOPLE OF THIS STATE THE  
25           RIGHT TO ACT IN THE PLACE OF THE STATE LEGISLATURE IN ANY LEGISLATIVE  
26           MATTER, AND THROUGH ENACTMENT OF THIS SECTION, THE PEOPLE DO HEREBY  
27           ACT AS THE LEGISLATURE OF COLORADO FOR THE PURPOSE OF CHANGING THE  
28           MANNER OF ELECTING PRESIDENTIAL ELECTORS IN ACCORDANCE WITH THE  
29           PROVISIONS OF ARTICLE II, SECTION 1 OF THE UNITED STATES CONSTITUTION;

30           (c) THE RIGHT TO VOTE FOR PRESIDENT OF THE UNITED STATES IS A

1 FUNDAMENTAL RIGHT AND EACH PERSON'S VOTE IS ENTITLED TO EQUAL DIGNITY  
2 AND SHOULD COUNT EQUALLY;

3 (d) THE PRESENT WINNER-TAKE-ALL METHOD OF AWARDING PRESIDENTIAL  
4 ELECTORS IN COLORADO PERMITS A PRESIDENTIAL TICKET TO RECEIVE ALL OF  
5 THIS STATE'S ELECTORAL VOTES EVEN THOUGH IT WINS LESS THAN A MAJORITY OF  
6 THE BALLOTS CAST IN THIS STATE;

7 (e) THE WILL OF THE COLORADO ELECTORATE IS BEST REFLECTED BY THE  
8 POPULAR PROPORTIONAL ALLOCATION OF ELECTORAL COLLEGE  
9 REPRESENTATIVES, BASED ON THE NUMBER OF BALLOTS CAST FOR THE  
10 RESPECTIVE PRESIDENTIAL TICKETS IN THIS STATE; AND

11 (f) IN THE STRONGEST POSSIBLE TERMS, THE VOTERS OF COLORADO DECLARE  
12 THAT, BY APPROVING THIS INITIATIVE, THEY UNDERSTAND, DESIRE, AND EXPECT  
13 THAT THE POPULAR PROPORTIONAL SELECTION OF PRESIDENTIAL ELECTORS IS  
14 INTENDED TO APPLY RETROACTIVELY AND THUS DETERMINE THE MANNER IN  
15 WHICH OUR STATE'S PRESIDENTIAL ELECTORS ARE CHOSEN AND OUR STATE'S  
16 ELECTORAL VOTES ARE CAST FOR THE GENERAL ELECTION OF 2004.

17 (2) THE TOTAL NUMBER OF ELECTORAL VOTES TO WHICH COLORADO IS ENTITLED SHALL  
18 BE DIVIDED AMONG THE PRESIDENTIAL TICKETS ON THE GENERAL ELECTION BALLOT,  
19 BASED UPON THE POPULAR PROPORTIONAL SHARE OF THE TOTAL STATEWIDE BALLOTS  
20 CAST FOR EACH PRESIDENTIAL TICKET, SUBJECT TO SUBSECTIONS (3) AND (4) OF THIS  
21 SECTION. EACH PRESIDENTIAL ELECTOR SHALL VOTE FOR THE PRESIDENTIAL CANDIDATE  
22 AND, BY SEPARATE BALLOT, VICE-PRESIDENTIAL CANDIDATE ON THE PRESIDENTIAL  
23 TICKET OF THE POLITICAL PARTY OR POLITICAL ORGANIZATION THAT NOMINATED THAT  
24 PRESIDENTIAL ELECTOR.

25 (3) THE ALLOCATION OF A PRESIDENTIAL TICKET'S POPULAR PROPORTION OF THIS STATE'S  
26 ELECTORAL VOTES SHALL BE IN WHOLE NUMBERS AND SHALL BE MADE IN THE FOLLOWING  
27 MANNER:

28 (a) THE TOTAL NUMBER OF BALLOTS CAST IN THIS STATE FOR EACH PRESIDENTIAL TICKET  
29 AT A GENERAL ELECTION SHALL BE DIVIDED BY THE TOTAL NUMBER OF BALLOTS CAST FOR  
30 ALL PRESIDENTIAL TICKETS THAT RECEIVE VOTES AT THAT GENERAL ELECTION; AND

31 (b) THE PROPORTION OF A PRESIDENTIAL TICKET'S POPULAR VOTE, AS DETERMINED IN  
32 PARAGRAPH (a) OF THIS SUBSECTION, SHALL BE MULTIPLIED BY THE NUMBER OF  
33 ELECTORAL VOTES TO WHICH COLORADO IS ENTITLED.

34 (4) THE NUMBER OF ELECTORAL VOTES THAT IS ATTRIBUTABLE TO THE BALLOTS CAST FOR  
35 ANY PRESIDENTIAL TICKET, AS DETERMINED IN SUBSECTION (3) OF THIS SECTION, SHALL

1 BE ROUNDED TO THE NEAREST WHOLE NUMBER, SUBJECT TO THE FOLLOWING  
2 LIMITATIONS.

3 (a) NO PRESIDENTIAL TICKET SHALL RECEIVE ANY ELECTORAL VOTES FROM THIS  
4 STATE IF ITS PROPORTION OF THE TOTAL BALLOTS CAST FOR ALL PRESIDENTIAL  
5 TICKETS WOULD REFLECT LESS THAN A FULL ELECTORAL VOTE AFTER ROUNDING  
6 TO THE NEAREST WHOLE NUMBER.

7 (b) IF THE SUM OF ELECTORAL VOTES ALLOCATED PURSUANT TO PARAGRAPH (a)  
8 OF THIS SUBSECTION IS GREATER THAN THE NUMBER OF ELECTORAL VOTES TO  
9 WHICH COLORADO IS ENTITLED:

10 (I) THE ALLOCATION OF ELECTORAL VOTES TO THE PRESIDENTIAL TICKET  
11 RECEIVING AT LEAST ONE ELECTORAL VOTE AND THE FEWEST NUMBER OF  
12 BALLOTS CAST SHALL BE REDUCED BY WHOLE ELECTORAL VOTES UNTIL  
13 ONLY THAT NUMBER OF ELECTORAL VOTES TO WHICH COLORADO IS  
14 ENTITLED HAVE BEEN ALLOCATED; AND

15 (II) THE PROCESS SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH  
16 SHALL BE REPEATED IF, AFTER THE REDUCTION OF ELECTORAL VOTES AS  
17 SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE TOTAL  
18 NUMBER OF ELECTORAL VOTES ALLOCATED TO ALL PRESIDENTIAL TICKETS  
19 REMAINS GREATER THAN THE TOTAL NUMBER OF ELECTORAL VOTES TO  
20 WHICH THIS STATE IS ENTITLED, AND SUCH PROCESS SHALL BE APPLIED TO  
21 THE PRESIDENTIAL TICKET RECEIVING AT LEAST ONE ELECTORAL VOTE  
22 AND THE NEXT FEWEST NUMBER OF BALLOTS CAST UNTIL THE TOTAL  
23 NUMBER OF ELECTORAL VOTES ALLOCATED TO ALL PRESIDENTIAL TICKETS  
24 IS EQUAL TO THE TOTAL NUMBER OF ELECTORAL VOTES TO WHICH THIS  
25 STATE IS ENTITLED.

26 (c) IF THE SUM OF ALL ELECTORAL VOTES ALLOCATED WOULD BE LESS THAN THE NUMBER  
27 OF ELECTORAL VOTES TO WHICH COLORADO IS ENTITLED, THE PRESIDENTIAL TICKET  
28 RECEIVING THE GREATEST NUMBER OF BALLOTS CAST SHALL RECEIVE ANY UNALLOCATED  
29 ELECTORAL VOTES UNTIL ALL OF THE ELECTORAL VOTES TO WHICH COLORADO IS  
30 ENTITLED HAVE BEEN ALLOCATED.

31 (d) IF TWO OR MORE PRESIDENTIAL TICKETS RECEIVE THE IDENTICAL TOTAL NUMBER OF  
32 BALLOTS CAST FOR ALL PRESIDENTIAL TICKETS AND THE ALLOCATION OF ELECTORAL  
33 VOTES TO WHICH COLORADO IS ENTITLED CANNOT BE PROPORTIONALLY ALLOCATED IN  
34 WHOLE ELECTORAL VOTES TO THESE PRESIDENTIAL TICKETS, THE SECRETARY OF STATE  
35 SHALL DETERMINE BY LOT WHICH OF THESE PRESIDENTIAL TICKETS WILL HAVE THEIR  
36 NUMBER OF ELECTORAL VOTES INCREASED OR DECREASED BY A WHOLE ELECTORAL VOTE  
37 UNTIL ALL OF THE ELECTORAL VOTES TO WHICH COLORADO IS ENTITLED HAVE BEEN

1 ALLOCATED.

2 (5) (a) A RECOUNT OF BALLOTS CAST FOR AND AGAINST THIS INITIATIVE SHALL BE  
3 ORDERED BY THE SECRETARY OF STATE IF THE DIFFERENCE BETWEEN THE NUMBER OF  
4 BALLOTS CAST FOR AND AGAINST THIS INITIATIVE IS LESS THAN OR EQUAL TO ONE-HALF  
5 OF ONE PERCENT OF THE HIGHEST NUMBER OF BALLOTS CAST IN THE ELECTION ON THIS  
6 INITIATIVE. WHERE THE DIFFERENCE BETWEEN THE NUMBER OF BALLOTS CAST FOR AND  
7 AGAINST THIS INITIATIVE IS GREATER THAN ONE-HALF OF ONE PERCENT OF THE HIGHEST  
8 NUMBER OF BALLOTS CAST IN THE ELECTION ON THIS INITIATIVE, A RECOUNT IN  
9 CONNECTION WITH THIS INITIATIVE MAY BE REQUESTED BY A PETITION REPRESENTATIVE  
10 IDENTIFIED WITH THIS INITIATIVE OR THE REGISTERED AGENT OF AN ISSUE COMMITTEE  
11 OPPOSING THIS INITIATIVE; PROVIDED, HOWEVER, THAT ANY SUCH PERSON OR THE  
12 COMMITTEE WITH WHICH HE OR SHE IS ASSOCIATED SHALL PAY THE COST OF SUCH  
13 RECOUNT BEFORE THE SECRETARY MAY BEGIN THE RECOUNT, BUT IF THE PREVAILING SIDE  
14 IN THE ELECTION IS CHANGED THEREBY, SUCH AMOUNT SHALL BE REFUNDED.

15 (b) A RECOUNT SHALL BE ORDERED BY THE SECRETARY OF STATE IF:

16 (I) THE DIFFERENCE BETWEEN THE NUMBER OF BALLOTS CAST FOR ANY TWO  
17 PRESIDENTIAL TICKETS IS LESS THAN OR EQUAL TO ONE-HALF OF ONE PERCENT OF  
18 THE BALLOTS CAST FOR THE TICKET THAT RECEIVED THE MOST VOTES OF THE TWO  
19 PRESIDENTIAL TICKETS IN QUESTION; AND

20 (II) AT LEAST ONE OF THE TWO PRESIDENTIAL TICKETS, AS A RESULT OF SUCH  
21 RECOUNT, COULD QUALIFY FOR ONE OR MORE ADDITIONAL ELECTORAL VOTES.

22 WHERE THE DIFFERENCE BETWEEN THE NUMBER OF BALLOTS CAST FOR THE TWO  
23 PRESIDENTIAL TICKETS IN QUESTION IS GREATER THAN ONE-HALF OF ONE PERCENT OF THE  
24 BALLOTS CAST FOR THE TICKET THAT RECEIVED THE MOST VOTES AS BETWEEN THOSE TWO  
25 TICKETS, A RECOUNT FOR PRESIDENTIAL ELECTORS MAY BE REQUESTED BY A  
26 PRESIDENTIAL TICKET OR THE POLITICAL PARTY OR POLITICAL ORGANIZATION ASSOCIATED  
27 WITH SUCH TICKET; PROVIDED, HOWEVER, THAT ANY SUCH TICKET OR POLITICAL PARTY  
28 OR ORGANIZATION WITH WHICH IT IS ASSOCIATED SHALL PAY THE COST OF SUCH RECOUNT  
29 BEFORE THE SECRETARY MAY BEGIN THE RECOUNT, BUT IF THE ELECTION RESULT IS  
30 CHANGED THEREBY AND AN ADDITIONAL ELECTORAL VOTE OR VOTES IS AWARDED TO  
31 THAT PRESIDENTIAL TICKET, SUCH AMOUNT SHALL BE REFUNDED.

32 (c) ANY RECOUNT AUTHORIZED PURSUANT TO THIS SUBSECTION SHALL BE ORDERED OR  
33 REQUESTED NOT LATER THAN 5:00 P.M ON THE TWENTY-THIRD DAY AFTER THE GENERAL  
34 ELECTION AT WHICH SUCH BALLOTS ARE CAST AND SHALL BE COMPLETED AND THE  
35 RESULT SHALL BE CERTIFIED BY THE SECRETARY OF STATE NOT LATER THAN CLOSE OF  
36 BUSINESS ON THE THIRTIETH DAY AFTER THE GENERAL ELECTION AT WHICH SUCH BALLOTS  
37 ARE CAST.

1 (6) FOR PURPOSES OF THIS SECTION ONLY AND NOTWITHSTANDING ANY OTHER  
2 PROVISION OF THIS CONSTITUTION:

3 (a) THE RESULTS OF THE ELECTION ON THIS INITIATIVE SHALL BE OFFICIALLY  
4 DECLARED BY PROCLAMATION OF THE GOVERNOR WHICH SHALL BE ISSUED AFTER  
5 THE VOTES THEREON HAVE BEEN CANVASSED BUT BEFORE NOON ON:

6 (I) THE TWENTY-FOURTH DAY FOLLOWING THE GENERAL ELECTION, IF NO  
7 RECOUNT IS ORDERED OR REQUESTED; OR

8 (II) THE THIRTY-FIRST DAY FOLLOWING THE GENERAL ELECTION, IF A  
9 RECOUNT IS ORDERED OR REQUESTED.

10 (b) THE SECRETARY OF STATE SHALL CERTIFY THE ELECTION OF PRESIDENTIAL  
11 ELECTORS, AS DETERMINED PURSUANT TO THIS SECTION, BUT IN NO EVENT SHALL  
12 SUCH CERTIFICATION BE ISSUED LATER THAN 2:00 P.M. ON:

13 (I) THE TWENTY-FOURTH DAY FOLLOWING THE GENERAL ELECTION, IF NO  
14 RECOUNT IS ORDERED OR REQUESTED AS TO SUCH ELECTION; OR

15 (II) THE THIRTY-FIRST DAY FOLLOWING THE GENERAL ELECTION, IF A  
16 RECOUNT IS ORDERED OR REQUESTED AS TO SUCH ELECTION.

17 (c) THE ELECTION CERTIFICATION PROCESS REFERRED TO IN PARAGRAPH (b) OF  
18 THIS SUBSECTION SHALL APPLY TO THE BALLOTS CAST FOR PRESIDENTIAL TICKETS  
19 AT THE NOVEMBER 2, 2004 GENERAL ELECTION AND AT GENERAL ELECTIONS  
20 HELD AFTER 2004 AT WHICH PRESIDENTIAL TICKETS ARE ON THE STATEWIDE  
21 BALLOT.

22 (7) THE SECRETARY OF STATE SHALL DETERMINE BY LOT WHICH PRESIDENTIAL ELECTORS,  
23 NOMINATED IN CONJUNCTION WITH A PRESIDENTIAL TICKET THAT QUALIFIES FOR AT  
24 LEAST ONE ELECTORAL VOTE PURSUANT TO THIS SECTION, SHALL BE ENTITLED TO CAST  
25 ELECTORAL VOTES. FOR EACH PRESIDENTIAL TICKET, THE SECRETARY OF STATE SHALL  
26 THEN DETERMINE BY LOT THE ORDER OF NOMINATED PRESIDENTIAL ELECTORS FOR THAT  
27 PRESIDENTIAL TICKET TO SERVE AS ALTERNATES IF ANY VACANCIES OCCUR IN THE OFFICE  
28 OF PRESIDENTIAL ELECTOR FOR THAT PRESIDENTIAL TICKET BECAUSE OF DEATH, REFUSAL  
29 TO ACT, ABSENCE OR OTHER CAUSE. SUCH DETERMINATIONS BY LOT PERFORMED BY THE  
30 SECRETARY OF STATE SHALL BE MADE BEFORE 3:00 P.M. OF THE TWENTY-FOURTH DAY  
31 FOLLOWING THE ELECTION IF NO RECOUNT IS ORDERED OR REQUESTED AND BEFORE 3:00  
32 P.M. OF THE THIRTY-FIRST DAY FOLLOWING SUCH ELECTION IF A RECOUNT IS ORDERED OR  
33 REQUESTED. IF THE NUMBER OF NOMINATED PRESIDENTIAL ELECTORS FOR A  
34 PRESIDENTIAL TICKET IS INSUFFICIENT TO ALLOW THE SECRETARY OF STATE TO FILL A  
35 VACANCY IN THE OFFICE OF PRESIDENTIAL ELECTOR BY LOT, THE POLITICAL PARTY OR

1 POLITICAL ORGANIZATION OF THE PRESIDENTIAL TICKET FOR WHICH THE VACANCY  
2 REMAINS SHALL NOMINATE THE NUMBER OF ADDITIONAL PRESIDENTIAL ELECTORS  
3 NECESSARY TO FILL THE VACANCY. THE SECRETARY OF STATE SHALL PREPARE A  
4 CERTIFICATE OF ELECTION FOR EACH PRESIDENTIAL ELECTOR ENTITLED TO CAST AN  
5 ELECTORAL VOTE. THE GOVERNOR SHALL SIGN AND AFFIX THE SEAL OF THE STATE TO THE  
6 CERTIFICATES AND DELIVER ONE CERTIFICATE TO EACH ELECTOR ON THE FIRST MONDAY  
7 AFTER THE SECOND WEDNESDAY OF DECEMBER FOLLOWING A GENERAL ELECTION.

8 (8) THE SUPREME COURT SHALL HAVE ORIGINAL JURISDICTION FOR THE ADJUDICATION  
9 OF ALL CONTESTS CONCERNING PRESIDENTIAL ELECTORS AND SHALL PRESCRIBE RULES  
10 FOR PRACTICE AND PROCEEDINGS FOR SUCH CONTESTS. CONTESTS CONCERNING THE  
11 ELECTION OF PRESIDENTIAL ELECTORS SHALL BE GIVEN THE HIGHEST PRIORITY ON THE  
12 COURT'S CALENDAR AND SHALL BE EXPEDITED IN ALL RESPECTS, INCLUDING HEARING  
13 AND DECISION. THE COURT SHALL RENDER ITS FINAL DECISION IN ANY CONTEST  
14 CONCERNING PRESIDENTIAL ELECTORS NOT LATER THAN THE FIRST FRIDAY AFTER THE  
15 SECOND WEDNESDAY OF DECEMBER FOLLOWING A GENERAL ELECTION. NO JUSTICE OF  
16 THE COURT WHO IS A CONTESTOR IN THE ELECTION CONTEST SHALL BE PERMITTED TO  
17 HEAR AND DETERMINE THE MATTER.

18 (9) THIS SECTION SHALL BE EFFECTIVE ON AND AFTER NOVEMBER 3, 2004.

19 (10) THIS SECTION SHALL BE LIBERALLY CONSTRUED TO ACHIEVE POPULAR  
20 PROPORTIONAL ALLOCATION OF PRESIDENTIAL ELECTORS AT THE 2004 GENERAL  
21 ELECTION.

22 (11) THE GENERAL ASSEMBLY MAY ENACT LEGISLATION TO CHANGE THE MANNER OF  
23 SELECTING PRESIDENTIAL ELECTORS OR ANY OF THE PROCEDURES RELATED THERETO.

24 (12) FOR PURPOSES OF THIS SECTION:

25 (a) "PRESIDENTIAL TICKET" MEANS CANDIDATES FOR PRESIDENT AND VICE  
26 PRESIDENT OF THE UNITED STATES WHO RUN FOR THEIR RESPECTIVE OFFICES  
27 JOINTLY IN COLORADO.

28 (b) "ROUNDED TO THE NEAREST WHOLE NUMBER" MEANS:

29 (I) INCREASED TO THE NEXT WHOLE NUMBER IF THE FRACTIONAL  
30 PROPORTION OF AN ELECTORAL VOTE ALLOCATED IS EQUAL TO OR  
31 GREATER THAN .5; AND

32 (II) DECREASED TO THE PRECEDING WHOLE NUMBER IF THE FRACTIONAL  
33 PROPORTION OF AN ELECTORAL VOTE ALLOCATED IS LESS THAN .5.

1 (c) "THIS INITIATIVE" MEANS THE VOTER-INITIATED CONSTITUTIONAL  
2 AMENDMENT, APPROVED AT THE NOVEMBER 2, 2004 GENERAL ELECTION,  
3 PROVIDING FOR POPULAR PROPORTIONAL SELECTION OF PRESIDENTIAL ELECTORS.

4 (d) "WHOLE NUMBER" MEANS A POSITIVE INTEGER, INCLUDING ZERO.

5 (13) IF ANY PROVISION OF THIS SECTION OR ANY PART THEREOF IS, FOR ANY REASON,  
6 HELD TO BE INVALID OR UNCONSTITUTIONAL, THE REMAINING PROVISIONS SHALL NOT BE  
7 AFFECTED, BUT SHALL REMAIN IN FULL FORCE AND EFFECT, AND TO THIS END, THE  
8 PROVISIONS OF THIS SECTION ARE SEVERABLE.