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Colorado General Assembly

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MEMORANDUM

To: Hazar Mavet Espinoza & Michael Scott Freeman II

From: Legislative Council Staff and Office of Legislative Legal Services

Date: January 27, 2026

Subject: Proposed Initiative Measure 2025-2026 #225, Concerning Election Procedures and Voter Identification

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Legislative Council Staff and the Office of Legislative Legal Services to "review and comment" on initiative petitions for proposed laws and amendments to the Colorado Constitution. We hereby submit our comments and questions to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the directors of Legislative Council Staff and the Office of Legislative Legal Services is to provide comments and questions intended to aid designated representatives, and the proponents they represent, in determining the language of their proposal and to avail the public of the contents of the proposal. Our first objective is to be sure we understand your intended purposes of the proposal. We hope that the comments and questions in this memorandum provide a basis for discussion and understanding of the proposal. Discussion between designated representatives or their legal representatives and employees of the Legislative Council Staff and the Office of Legislative Legal Services is encouraged during review and comment meetings, but comments or discussion from anyone else is not permitted.

Purposes

The major purposes of the proposed amendments to the Colorado Constitution or to the Colorado Revised Statutes appear to be to:

1. Create the “Colorado Election Integrity Protection Act”;
2. Define the terms “election official” and “prosecutorial official” for purposes of the proposed initiative;
3. Eliminate automatic voter registration;
4. Eliminate the option to vote by mail for most voters and specify that only voters who are temporarily residing outside of the state may vote by mail;
5. Require the secretary of state (secretary) to notify the state-level election official of another state that a voter previously registered to vote in that state has registered to vote in Colorado and should be removed as a registered elector in the other state;
6. Require the secretary to create a “Voter ID Verification Affidavit” (affidavit) that includes specified information about a prospective voter;
7. Specify that a prospective voter cannot be registered to vote nor can a ballot be mailed to a registered voter outside the state without a valid updated voter registration form, a completed affidavit, and a scan of the ID that is being used to verify the identity of the prospective voter;
8. Require all currently registered voters in Colorado to:
 - a. Within a specified period, appear in person at their county clerk’s office to present a valid ID and completed affidavit to verify their voter registration;
 - b. Specify that any registered voter in Colorado who does not so appear will have their voter registration revoked; and
 - c. Require the secretary and county clerk and recorders to facilitate this requirement of the proposed initiative;

9. Require the secretary to ensure the decommissioning and destruction of all electronic voting machines and vote count machines in Colorado and prohibit the use of such machines in state elections;
10. Specify certain actions and inactions by an election official, and in some cases by any person, including a prosecutorial official, in connection with election integrity that are class 2 misdemeanors, class 3 felonies, or class 1 felonies, depending on the offense;
11. Specify that if an election official refuses to remove over 10,000 ineligible voters from the voter registration rolls, the ineligible voters are enemies of the state and the election official harboring the ineligible voters shall be prosecuted for treasonous election engineering;
12. Specify that no state money will be used in defense of any election official accused of treasonous election engineering and to specify the penalty for treasonous election engineering or treasonous election engineering accomplices;
13. Create a cause of action for suit against an election official in their individual and official capacity for certain actions or inactions in connection with election integrity;
14. Create a cause of action for suits against a prosecutorial official in their individual and official capacity for refusing to prosecute violations of the proposed initiative and to authorize a judge to appoint a special prosecutor to investigate and prosecute such failures to act;
15. Prohibit any news organization operating in Colorado from presenting election tallies of Colorado elections that were not verified by an election official in Colorado; require such news organization to preserve specified information in connection with reporting election tallies for a year after an election; and specify penalties for a news organization that unlawfully declares a winner or loser of an election;
16. Allow the courts to authorize a recount, audit, or forensic audit upon a finding of probable cause that all or a portion of election results may be fraudulent;

17. Allow a group of citizens that witnesses an act that could be construed as a violation of election laws in Colorado to physically detain the suspected violator until law enforcement arrives;
18. Authorize law enforcement officials to investigate election crimes that are reported to them and to take certain actions, including seizing ballots as evidence;
19. Amend the Colorado Governmental Immunity Act to waive sovereign immunity for claims filed under the proposed initiative; and
20. To require the General Assembly to provide funding to the secretary's office for requirements of the secretary pursuant to the proposed initiative.

Substantive Comments and Questions

The substance of the proposed initiative raises the following comments and questions:

1. Article V, section 1 (5.5) of the Colorado Constitution requires all proposed initiatives to have a single subject. What is the single subject of the proposed initiative?
2. Article V, section 1 (4)(a) of the Colorado Constitution requires that when the majority of voters approve an initiative, the initiative is effective on and after the date of the official declaration of the vote and proclamation of the governor.

Because the proposed initiative does not contain an effective date, this would be the default effective date. Does this default effective date satisfy your intent? If not, you should include the desired effective date that is not earlier than the default effective date to comply with this constitutional requirement.

3. Under article V, section 1 (2) of the Colorado Constitution, proposed initiatives amend either the Colorado Constitution or the Colorado Revised Statutes.
 - a. Does the proposed initiative amend the Colorado Constitution or the Colorado Revised Statutes?
 - b. Additionally, in accordance with section 1-40-102 (4), C.R.S., and for publication purposes, an amending clause should be used to show where in the Colorado Constitution or Colorado Revised Statutes a proposed

initiative's provisions should be inserted. Where will the proposed initiative be placed?

- c. Please indicate through an amending clause where the proposed initiative will be placed.

4. Article V, section 1 (5) of the Colorado Constitution and section 1-40-102 (4), C.R.S., require a proponent to submit for review and comment the full text of the initiative being proposed, which, if passed, becomes the actual language of the constitution or statute. In parts of the proposed initiative, you have submitted directions for how certain laws would be changed, rather than the actual language that would be added to the Colorado Constitution or Colorado Revised Statutes. For example, the proposed initiative states that "Criminal Code § 18-11-101 shall be amended to incorporate Treasonout Election Engineering with the language and effect of this paragraph" and that the proposed initiative "Amends Colorado Governmental Immunity Act to waive sovereign immunity for claims filed under the [proposed initiative]". However, in neither case does the proposed initiative actually amend existing law. Please amend your proposal to include the actual text of the proposed statutory changes, including necessary amendments to current law.

5. Portions of the proposed initiative are in conflict with current law. For example, the proposed initiative states that "Automatic voter registration is hereby abolished..." and that voters may only vote by mail if they are residing outside of the state. However, there are multiple provisions of Colorado's "Uniform Election Code of 1992", articles 1 to 13 of title 1, Colorado Revised Statutes, that provide for both automatic voter registration and voting by mail for all electors.

- a. Who is responsible for determining which provisions of current law are in conflict with the proposed initiative and how current law would need to be amended or repealed to avoid conflicts with the proposed initiative?
- b. Who is responsible for implementing necessary changes to current law so the language of the proposed initiative can be implemented?
- c. How do the provisions of the proposed initiative interact with other provisions of the "Uniform Election Code of 1992"?

6. How do the mail ballot provisions in the proposed initiative for out-of-state voters interact with the provisions of the federal “Uniformed and Overseas Citizens Absentee Voting Act”?
7. Elections in Colorado allow the use of mail ballots. The proposed initiative specifies that mail ballots are no longer allowed in most cases but does not specify how registered electors will vote. What is the proponents’ intent regarding how registered electors will vote? Is it the proponents’ intent that voting will occur only in person on election day, or is early voting allowed?
8. Regarding the requirement for the secretary to notify the election officials in other states when an individual registers to vote in Colorado, is it your intent that the secretary use state resources to help other states remove voters from their election rolls? Do other states provide similar assistance to Colorado?
9. Is it your intent that every voter must show a picture ID to be able to vote, with limited exceptions when a voter resides out of state and has an ID on file with the secretary?
10. The proposed initiative states that it is perjury in the first degree to materially misrepresent oneself when submitting voter registration information and that violators will be punished accordingly. What does it mean to be punished accordingly? Who determines whether an individual has committed perjury?
11. The proposed initiative requires “ALL” currently registered Colorado voters to go to their county clerk’s office to validate their registration or their registration will be revoked. How will this requirement impact people who are legally registered to vote in the state but are incapacitated or otherwise unable to physically appear at their county clerk’s office to validate their registration?
12. The proposed initiative requires the secretary to create a section with adequate staff to support the counties in voter registration verification. Will counties bear any of the costs associated with this or any other requirement in the proposed initiative?
13. The proposed initiative requires the secretary to ensure the decommissioning and the destruction of all electronic voting machines and vote counting machines in Colorado. What method of voting and vote counting will replace the electronic voting and vote counting machines?

14. Current law specifies in section 18-1.3-501 (1)(a.5), C.R.S., that the maximum penalty authorized upon conviction of a class 2 misdemeanor is 120 days imprisonment, not more than a \$750 fine, or both. Certain class 2 misdemeanors created in the proposed initiative have a penalty of a maximum of six months in jail. Is it the proponent's intent to create a different penalty for some class 2 misdemeanors that is inconsistent with current law?
15. Pursuant to section 18-1.3-401, C.R.S., the penalty for a class 1 felony is life imprisonment. The proposed initiative makes it a class 1 felony for an election official to knowingly commit certain election offenses. Is it your intent that the punishment for these offenses is life imprisonment as specified in current law?
16. Who is responsible for enforcing the new misdemeanors, class 1 felonies, class 3 felonies, and the crime of systematic election engineering as created in the proposed initiative?
17. The proposed initiative specifies several restrictions on news organizations or press operating in Colorado or reporting Colorado election results. Do these restrictions apply to national news organizations or press that are reporting Colorado election results or only to Colorado-based organizations? Do the restrictions in the proposed initiative conflict with the right to the freedom of the press as specified in the first amendment to the United States Constitution and in section 10 of article II of the Colorado Constitution?
18. The proposed initiative authorizes a group of two or more citizens to take physical measures to restrain a person that it believes violated the "Colorado Election Laws".
 - a. Does "Colorado Election Laws" refer only to the provisions of the proposed initiative or does it include the provisions of the "Uniform Election Code of 1992" as well?
 - b. Does allowing citizens to restrain other citizens raise any due process or false imprisonment concerns?
19. What fiscal or other impacts may result from the enactment of the proposed initiative on the state and local governments in Colorado? To the extent that the enactment of the proposed initiative, including the creation of new duties for the secretary, county clerk and recorders, election officials, and the courts and the creation of new crimes, leads to or may lead to a strain on government resources,

how will the state and local governments pay for the costs of implementing the proposed initiative?

20. Article II, section 19 of the Colorado Constitution generally guarantees the right to bail except for capital offenses or specific violent crimes. How does this guarantee interact with the statement a person suspected of obstructing a recount for 168 hours or more be arrested and "held without bond until the completion of their trial"?
21. The proposed initiative allows certain actions to be prosecuted as "Treasonous Election Engineer." How does this interact with the definition of treason in article II section 9 of the Colorado Constitution?

Technical Comments

The following comments address technical issues raised by the form of the proposed initiatives. These comments will be read aloud at the public meeting only if the designated representatives so request. You will have the opportunity to ask questions about these comments at the review and comment meeting. Please consider revising the proposed initiative as follows:

1. The Colorado Revised Statutes are divided into sections, and each section may contain subsections, paragraphs, subparagraphs, and sub-subparagraphs as follows:

X-X-XXXX. Headnote. (1) Subsection.

- (a) Paragraph
 - (I) Subparagraph
 - (A) Sub-subparagraph
 - (B) Sub-subparagraph
 - (II) Subparagraph
- (b) Paragraph

(3) Subsection

Whether the proposed initiative amends the Colorado Revised Statutes or the Colorado Constitution, consider breaking up the text of the proposed initiative into separate subsections, paragraphs, etc., as specified above for ease of reading.

2. Each constitutional or statutory section being amended, repealed, or added is preceded by a separate clause, referred to as the “amending clause,” that explains how the law is being changed. Amending clauses are written in lowercase type and follow a specific format. For example:
 - a. **SECTION 1.** In Colorado Revised Statutes, **add** part ___ to article __ of title __ as follows:
 - b. In the constitution of the state of Colorado, **add** section __ to article __ as follows:
3. Each section in the Colorado Constitution and Colorado Revised Statutes has a headnote. Headnotes briefly describe the content of the section. For example:
 - a. **18-11-101. Treason.** (in the Colorado Revised Statutes)
 - b. **Section 20. The Taxpayer’s Bill of Rights** (in the Colorado Constitution)
4. It is standard drafting practice to use small capital letters to show the language being added to the Colorado Revised Statutes or the Colorado Constitution. The headnote should remain in lowercase letters. To find small capital letters in Microsoft Word, go to the Home tab, click the arrow in the bottom right corner of the Font group, and in the Font dialog box, check the Small Caps checkbox under Effects.
5. The following is the standard drafting language used for creating a definitions section:

As used in this section, unless the context otherwise requires:

 - (1) “[The term]” means [the definition of the term].
 - (2) “[The term]” means [the definition of the term].
6. Modifying the specific sections of the Colorado Revised Statutes referred to in the proposed initiative should be accomplished through a separate amending clause in another section of the initiative. For instance, this could be written out as:

SECTION 2. In Colorado Revised Statutes, **amend** 18-11-101 as follows:

7. It is standard drafting practice to show language being removed from the Colorado Constitution or the Colorado Revised Statutes in stricken type, e.g., ~~stricken type~~.
8. It is standard drafting practice to not capitalize standalone titles of government officers or names of agencies. For example, “Secretary of State” does not need to be capitalized.
9. It is standard practice to not refer to “this act” but to refer to the statutory or constitutional location of the law.
10. It is standard drafting practice to not capitalize common nouns. For example, class (in class 1 and class 2), people (in people of Colorado), social security number, citizen, and voter registration rolls do not need to be capitalized.
11. At the end of the seventh paragraph of the proposed initiative, “he” should be changed to “be”.