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Colorado General Assembly

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MEMORANDUM

To: Tanya Nathan and Lindsey Rasmussen

From: Legislative Council Staff and Office of Legislative Legal Services

Date: February 28, 2026

Subject: Proposed Initiative Measure 2025-2026 #239

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.

This proposed initiative **2025-2026 #239** was submitted by the same designated representatives as a part of a group of related proposed initiatives, including proposed initiatives **2025-2026 #240** through **#242**. The comments and questions raised in this memorandum do not include comments and questions that were addressed in the memoranda for proposed initiatives **2025-2026 #240** through **#242**, except as necessary to fully understand proposed initiative **2025-2026 #239**. Comments and

questions addressed in those memoranda may also be relevant, and those questions and comments are considered part of this memorandum.

Purposes

Purposes for Proposed Initiative 2025-2026 #239

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

1. Make findings and declarations of the people of the state of Colorado;
2. Call on the congress of the United States to pass federal legislation and propose an amendment to the United States Constitution that requires the use of fair, independent, and nonpartisan redistricting commissions nationwide;
3. Create a temporary congressional district map to be used in the 2028 and 2030 congressional elections that sets new boundaries for Colorado's eight congressional districts; and
4. Repeal article V, sections 44 through 44.6 of the Colorado Constitution and reenact most of the language of article V, sections 44 through 44.6 of the Colorado Constitution in part 1 of article 1 of title 2 of the Colorado Revised Statutes, thereby recreating the independent congressional redistricting commission in statute.

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. The following questions relate to the new section 2-1-105 (1.5) and amended section 2-1-105 (2) of the proposed initiative:
 - a. Section 2-1-105 (1.5)(b) of the proposed initiative states that the maps will “temporarily be used for every Colorado congressional election for a term of office commencing on or after the date this measure is adopted by the voters of Colorado, and before the certification of new congressional boundary lines drawn by the congressional redistricting commission after the 2030 decennial census.” What does it mean for the maps to be “temporarily” used in an election?
 - b. Section 2-1-105 (1.5)(b) of the proposed initiative states that the temporary districts shall be contiguous, comply with the “Voting Rights Act of 1965”, and comply with the federal one-person, one-vote requirements. Do any of the criteria specified in article V, section 44.3 (1) of the Colorado Constitution or in section 2-1-505.5 (1) of the proposed initiative apply to the temporary maps?
 - c. Section 2-1-105 (2) of the proposed initiative specifies that “[f]or the election of representatives to Congress,” Colorado should be divided into eight congressional districts as specified in the proposed initiative. Based on other language in the proposed initiative, it seems as if your intent is to use these temporary maps for the 2028 and 2030 congressional elections. Is this your intent? If so, consider specifying in proposed section 2-1-105 (2) that the maps are for “the 2028 and 2030 elections of representatives to Congress”.
 - d. Why does the proposed initiative specify the tracts, block groups, and blocks of each county to be included in a congressional district for purposes of the temporary map? Is it necessary to include this detail in the Colorado Revised Statutes?
4. The following questions relate to the directive in section 10 of the proposed initiative to “amend (8)” and “add ... (2)” in section 2-1-105, C.R.S.:
 - a. Subsection (2) currently exists in that section of statute but subsection (8) does not. Did you mean to “amend (2)” and “add (8)”?

- b. Is it your intent to move some of the law that currently appears in the Colorado Revised Statutes as subsection (2) into a new subsection (8)? If so, consider showing all of subsection (2), as it exists in current law, in strike-type and showing the portions of subsection (2), as it exists in current law, that you intend to move into the new subsection (8) as new language.
5. The following questions relate to section 2-1-105 (6) of the proposed initiative:
 - a. The proposed initiative specifies that the venue for a civil action challenging the redistricting plan “shall lie exclusively in the district court of the city and county of Denver.” Why does the venue lie exclusively in the district court of the city and county of Denver rather than in the Colorado Supreme Court or another court?
 - b. The proposed initiative requires the district court of the city and county of Denver to review and approve the redistricting plan to ensure that it is in compliance with the requirements of the proposed initiative. The initiative does not specify a deadline by which the district court of the city and county of Denver must complete its review of the redistricting plan. For example, article V, section 44.5 of the Colorado Constitution currently specifies that by “November 1 of the redistricting year, the supreme court shall approve the plan submitted or return the plan to the commission.” What is the date or deadline by which the district court of the city and county of Denver is required to complete its review?
 - c. What happens if the district court of the city and county of Denver finds that the temporary districts are not in compliance with the requirements of the proposed initiative?
6. Section 2-1-105 (7) of the proposed initiative says that “[a]fter the 2030 decennial census, the congressional redistricting commission established pursuant to section 2-1-105.2 (1) shall adjust the boundary lines of the congressional districts...” By “adjust” the boundaries, do you mean that the congressional redistricting commission, as recreated in the proposed initiative, will engage in the redistricting process as specified in sections 2-1-105.2 through 2-1-105.7 of the proposed initiative?
7. Sections 2-1-105.2 through 2-1-105.7 appear to largely reenact article V, sections 44 through 44.5 of the Colorado Constitution, which the initiative proposes to

repeal. Why does the proposed initiative repeal the congressional redistricting commission in the Colorado Constitution and recreate the commission in statute?

8. The following questions relate to section 2-1-105.7 of the proposed initiative:
 - a. The proposed initiative requires review of the independent congressional redistricting commission-submitted plan by the district court of the city and county of Denver. Currently, article V, section 44.5 of the Colorado Constitution requires the Colorado Supreme Court to review independent congressional redistricting commission-submitted plans. Why is review conducted by the district court of the city and county of Denver rather than the Colorado Supreme Court?
 - b. The proposed initiative says that “[t]he district court and any appellate court shall approve the plan submitted unless it finds...”. Does this mean that a decision of the district court of the city and county of Denver related to the plan may be appealed to the Colorado Court of Appeals, and a decision of the Colorado Court of Appeals related to the plan may be appealed to the Colorado Supreme Court? If so, who has the right to appeal?
 - c. The proposed initiative says that “[b]y November 1 of the redistricting year, the district court and any appellate court reviewing the district court’s decision, shall approve the plan submitted or return the plan to the commission.” What happens if the district court completes its review of the plan on October 30 and the decision is appealed to the Colorado Court of Appeals on October 31?

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 title, article, part, or subsection number or letter you're referencing needs to be specified. For example, “(1.5)(b) of this section” or “subsection (2) of this section.”

2. It is not necessary to include "C.R.S." after each statutory section number.
3. It is standard drafting practice for the second-to-last item in a numbered or lettered list to end in a conjunction that connects the items, either "; and" or "; or".
4. Font at the beginning of proposed section 2-1-105.3 (10) on page 38 adds new statutory text and is formatted in normal lettering. It is standard drafting practice that new statutory language is formatted in small capital letters.
5. Proposed section 2-1-105.4 (4)(b)(II) on page 43 includes strike-type in a section with all new language. Please remove the "1" that is in strike-type from this section.
6. The amending clause for section 1 of the proposed initiative should amend section 2-1-100.5 rather than section 2-1-105.
7. The language that appears after section 9 of the proposed initiative is missing an amending clause and does not reflect what section of the Colorado Revised Statutes is being amended. Please add an amending clause and the headnote for the section being amended.
8. It is standard drafting practice for small caps language to come after stricken language.