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MEMORANDUM

To: Suzanne Taheri and Elizabeth Caven

From: Legislative Council Staff and Office of Legislative Legal Services

Date: March 4, 2026

Subject: Proposed initiative measures 2025-2026 #251, #252, #254, and #255 concerning Congressional Redistricting

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 initiatives.

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 proposals and to avail the public of the contents of the proposals. Our first objective is to be sure we understand your intended purposes of the proposals. We hope that the comments and questions in this memorandum provide a basis for discussion and understanding of the proposals. 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.

Proposed initiatives **2025-2026 #251, #252, #254** and **#255** were submitted by the same designated representatives as a part of a group of related proposed initiatives, including proposed initiatives **2020-2026 #251** through **#256**. The comments and questions raised in this memorandum do not include comments and questions that were addressed in the memorandum for proposed initiatives **2025-2026 #253 and #256**, except as necessary to fully understand proposed initiatives **2025-2026 #251, #252,**

#254, and **#255**. 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 #251

The major purposes of the proposed amendment to the Colorado Constitution appear to be to:

1. Upon the adoption and approval of a final congressional redistricting plan in a redistricting year following the federal decennial census, prohibit the modification of the plan for the 2028 congressional election or election thereafter except with the approval of the independent congressional redistricting commission (congressional commission) and adoption by the Colorado supreme court;
2. In reviewing a modified congressional district plan, require the congressional commission to hold at least three public meetings; and
3. Prohibit the congressional commission from approving or the Colorado supreme court from giving effect to a congressional district map if it has been drawn purposefully to favor one political party or to minimize politically competitive districts.

Purposes for Proposed Initiative 2025-2026 #252

The major purposes of the proposed amendment to the Colorado Constitution appear to be to:

1. Upon the adoption and approval of a final congressional redistricting plan in a redistricting year following the federal decennial census, prohibit the modification of the plan for the 2028 congressional election or election thereafter except with the approval of the congressional commission and adoption by the Colorado supreme court;
2. In reviewing a modified congressional district plan, require the congressional commission to hold at least three public meetings; and

3. Prohibit the congressional commission from adopting a plan that has the effect of dividing communities of interest or favoring one political party.

Purposes for Proposed Initiative 2025-2026 #254

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

1. Upon the adoption and approval of a final congressional redistricting plan in a redistricting year following the federal decennial census, prohibit the modification of the plan for the 2028 congressional election or election thereafter except with the approval of the congressional commission and adoption by the Colorado supreme court;
2. In reviewing a modified congressional district plan, require the congressional commission to hold at least three public meetings; and
3. Prohibit the congressional commission from adopting a plan that has the effect of dividing communities of interest or favoring one political party.

Purposes for Proposed Initiative 2025-2026 #255

The major purposes of the proposed amendment to the Colorado Constitution appear to be to:

1. Declare that Colorado will maintain its independent congressional redistricting process set forth in the Colorado Constitution and reject out-of-state efforts designed to compromise or suspend Colorado's fair and independent election process;
2. Upon the adoption and approval of a final congressional redistricting plan in a redistricting year following the federal decennial census, prohibit the modification of the plan for the 2028 congressional election or election thereafter except with the approval of the congressional commission and adoption by the Colorado supreme court;
3. In reviewing a modified congressional district plan, require the congressional commission to hold at least three public meetings; and
4. Prohibit the congressional commission from adopting a plan that has the effect of dividing communities of interest or favoring one political party.

Substantive Comments and Questions

The substance of the proposed initiatives raise 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 each of the proposed initiatives?
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 initiatives do not contain an effective date, this would be the default effective date for each of the proposed initiatives. Does this default effective date satisfy your intent? If not, you should include the desired effective date for each proposed initiative that is not earlier than the default effective date to comply with this constitutional requirement.

3. Proposed initiatives #251, #252, and #255 all place new language in a new subsection of section 44 in article V of the Colorado Constitution. Section 44 of article V of the Colorado Constitution contains a declaration, creation of the independent congressional redistricting commission, and definitions. However, the new provision in each of the proposed initiatives address requirements related to the adoption and approval of a congressional district map in a redistricting year following a federal decennial census. What is the intent of proposing to place this requirement here, far removed from existing constitutional provisions to which it more naturally relates?
4. The following comments and questions relate to proposed initiatives #251, #252, #254, and #255, each of which prohibit, upon adoption and approval of a “final plan”, the modification of the plan for the 2028 congressional election or election thereafter, without approval of the commission and adoption by the Colorado supreme court:
 - a. The provision in the proposed initiatives regarding the modification of a final plan applies “for the 2028 congressional election or thereafter”. For how many election cycles does the prohibition stay in effect? Will this provision apply after the congressional commission appointed after the 2030 federal decennial census approves a final plan? Is the proposed

initiative intended to alter or interfere with the approval of a map by the congressional commission appointed after the 2030 federal decennial census or any subsequent congressional commission?

- b. The proposed initiatives state that “upon adoption and approval of the final plan, no plan may be modified ...” What plan is “the final plan”? Does this refer to the congressional district map adopted by the congressional commission following the 2020 federal decennial census, a congressional district map adopted by the congressional commission following any future federal decennial census, or some other map?
- c. If a congressional district plan is modified, who would be modifying it? How would it be submitted to the congressional commission and the Colorado supreme court for review?
- d. If a congressional district map is modified, which congressional commission is required to approve the modified congressional district map? Is it your intent to reconvene the congressional commission that created and approved the congressional district maps after the 2020 federal decennial census (2021 congressional commission) or to form a new commission?
- e. If your intent is to reconvene the 2021 congressional commission, what would happen if there are commissioners who are no longer eligible to serve as commissioners based on the constitutional requirements? For example, if a commissioner changed their political party affiliation, moved out of state, or started working as a lobbyist, they would be ineligible to be commissioners and those seats would become vacant pursuant to the Colorado Constitution. Would nonpartisan legislative staff be required to go through a replacement process for those commissioners? If not, how would the vacancies in the 2021 congressional commission be filled?
- f. If your intent is to form a new commission, how would the new commissioners be chosen? Is it your intent that the process specified in section 44.1 of article V of the Colorado Constitution would be used to appoint a new congressional commission? If not, how would the new congressional commission be appointed?
- g. Regardless of whether you intend to reconvene the 2021 congressional commission or appoint a new congressional commission, what is the

deadline for the congressional commissions approval or disapproval of a modified congressional district map?

- h. How would the reconvened 2021 congressional commission or a new commission be funded and staffed?
 - i. What is the deadline for the Colorado supreme court to adopt or reject a modified congressional district map?
 - j. What criteria are the congressional commission and the Colorado supreme court required to use when approving or adopting a modified congressional district map?
 - k. What happens if the congressional commission or the Colorado supreme court do not approve or adopt a modified congressional district map? Does the then-current congressional district map remain in effect until the congressional districts are redrawn after the next federal decennial census by a new congressional commission pursuant to the process established in the Colorado Constitution?
5. The following comments and questions relate to proposed initiatives #251, #252, #254, and #255, each of which specifies that in reviewing a modified congressional district map, the congressional commission is required to hold at least three public meetings:
- a. What is the intent of “in reviewing the plan”? Is the intent that the congressional commission create a draft modified plan prior to the three public meetings? Or, is the “plan” meant to refer to the final plan that was adopted by the congressional commission in a redistricting year following the federal decennial census?
 - b. Section 44.2 (3)(b) of the Colorado Constitution currently requires the congressional commission to hold at least three public hearings in each congressional district, while the proposed initiative requires “at least three public meetings” regarding a modified congressional redistricting map. Does the requirement for “three public meetings” apply only when a map is modified or is it your intent to change the meeting requirement for congressional commissions going forward?

- c. Are there any requirements regarding the location of the public meetings? For example, could all three of the meetings be held in the city and county of Denver?
 - d. What is the deadline by which the public meetings must be held?
 - e. Is nonpartisan legislative staff required to help the congressional commission organize the public meetings?
 - f. Are there any requirements that members of the public be allowed to submit comments, either in person or in writing, regarding the modified congressional district map at the public meetings?
 - g. Are there any attendance requirements for commissioners? For example, if only four commissioners attend the public meeting, has the meeting satisfied the requirement of the proposed initiative?
6. The following comments and questions related to proposed initiative #251, which specifies that a map may not be approved by the congressional commission or given effect by the Colorado supreme court if it has been drawn purposefully to favor one political party or to minimize politically competitive districts:
- a. Section 1 of the proposed initiative applies only when a congressional district map is modified after final approval. However, this requirement in proposed subsection (4)(c) of section 44.3 of article V of the Colorado Constitution appears to apply to all maps approved by a congressional commission and given effect by the Colorado supreme court. Is this your intent?
 - b. How does the prohibition in the proposed initiative against minimizing politically competitive districts interact with the existing requirement in section 44.3 (3)(a) of the article V of the Colorado Constitution to maximize the number of politically competitive districts?
 - c. How will the congressional commission and the Colorado supreme court determine whether a congressional district map “has been drawn purposefully to favor one political party”?

- d. Is it your intent to create a standard where if a congressional district map provides even a small a mathematical advantage to one political party, it would render the map invalid?
7. The following comments and questions relate to proposed initiatives #252, #254, and #255, all of which prohibit a modified congressional district map from being approved or adopted if it “has the effect of dividing communities of interest or favoring one political party”:
 - a. How will the congressional commission and the Colorado supreme court determine whether a modified congressional map “has the effect of” dividing communities of interest?
 - b. Section 44.3 (2)(a) of article V of the Colorado Constitution requires preserving communities of interest “as much as is reasonably possible”, recognizing that higher-priority criteria such as precise mathematical population equality, as required in section 44.3 (1)(a) of article V, and complying with the federal “Voting Rights Act of 1965”, as required in section 44.3 (1)(b) of article V, may require such divisions. Does the absolute prohibition against dividing communities of interest included in the proposed initiative override these higher-priority constitutional requirements for a modified congressional district map?
 - c. How will the congressional commission and the Colorado supreme court determine whether a modified congressional map “has the effect of” favoring one political party?
 - d. Is it your intent to create a standard where if a modified congressional district map provides a mathematical advantage to one political party, regardless of whether that advantage was intended and regardless of other constitutional criteria, it would render the modified congressional district map invalid?
8. The following comments and questions relate to proposed initiative #254, which amends the Colorado Revised Statutes to add a provision about a temporary map of congressional districts:
 - a. Under article V, sections 44 to 44.5 of the Colorado Constitution, the congressional commission and the Colorado supreme court are granted

specific constitutional authority and are required to follow specific procedures regarding redistricting. However, the proposed initiative amends the Colorado Revised Statutes rather than the Colorado Constitution. Is it your intent that the statutory provision will lawfully and properly modify the constitutional congressional redistricting process?

- b. The provisions of proposed initiative #254 appear to be identical to the provisions of proposed initiative 2025-2026 #252, except that #252 amends the Colorado Constitution rather than the Colorado Revised Statutes. Why have the proponents chosen to amend the Colorado Revised Statutes rather than the Colorado Constitution?
9. The following comments and questions relate to proposed initiative #255, which makes declarations about elections and the redistricting process in Colorado:
 - a. The proposed initiative states that “Colorado will not compromise independent and fair elections at the request or demand of any individual or partisan special interest” and shall “reject out-of-state efforts designed to compromise or suspend Colorado’s fair and independent election process.” Are these statements intended to be legally binding directives or are they non-binding declarations of intent?
 - b. If the statement regarding not compromising independent and fair elections at the request of an individual or special interest is intended to be binding, what entity is charged with enforcing this prohibition?
 - c. If the statements regarding “out-of-state efforts” are intended to be binding, how would the commission or the Colorado supreme court identify and reject such efforts in practice? And, are such in-state efforts permitted?
 - d. The proposed initiative states that “Colorado shall maintain the specific independent redistricting process set forth in this article ...”. Article V also includes an independent redistricting process for the state general assembly. However, the rest of this proposed initiative is only specific to the independent redistricting process for congress. What is your intent?
 - e. Proposed initiative #255 adds a new subsection (5) to section 44 of article V of the Colorado Constitution. Proposed initiatives #251 and #252 both add similar language to section 44 of article V of the Colorado Constitution but

add the language in a proposed new subsection (1.5). Is there a reason why the proponents have chosen to add the language in proposed initiative #255 via a new subsection (5) rather than a new subsection (1.5) in section 44 of article V 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. Each section in the Colorado Constitution has a headnote. Headnotes briefly describe the content of the section. For example, the following headnote for section 1 of proposed initiatives #251, #252, and #255 should be included after the amending clause:
Section 44. Representatives in congress - congressional districts - commission created.
2. It is standard drafting practice to not capitalize standalone titles of government officers or names of agencies. For example, it is unnecessary to initial-capitalize “commission” or “supreme court”.
3. The first letter of the first word of a sentence should be capitalized.
4. For proposed initiative #251, the amending clause for proposed section 2 should state “In **the** constitution...” (**emphasis added**).
5. For proposed initiative #251, 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”. Consider striking “or” after (4)(a) and moving it after (4)(b) in section 2 of the proposed initiative.
6. For proposed initiative #251, It is unnecessary to include “(4)” before the new paragraph (c) in section 2 of the proposed initiative.
7. For proposed initiative #255, the title, article, part, or subsection number or letter you're referencing needs to be specified. For example, “this article” should instead read “this article V.” In addition, it is not necessary to capitalize “article”.