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MEMORANDUM

To: Frederick Michael Enstrom and Kathleen Chandler

From: Legislative Council Staff and Office of Legislative Legal Services

Date: March 31, 2026

Subject: Proposed Initiative Measure 2025-2026 #324, Concerning Congressional Redistricting Criteria

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 #324 was submitted by the same designated representatives as a part of a group of related proposed initiatives, including proposed initiatives 2025-2026 #324 through #326. The comments and questions raised in this memorandum do not include comments and questions that are addressed in the memoranda for proposed initiatives 2025-2026 #325 through #326, except as necessary to fully understand proposed initiative 2025-2026 #324. 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 2026-2026 #324

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

1. To redefine a “community of interest” in article V, section 44 of the Colorado Constitution as a “traditional community of interest”;
2. To define new “geographical communities of interest” in article V, section 44 of the Colorado Constitution;
3. To prohibit any congressional districting plan adopted in Colorado from being created with or influenced by partisan voter registration data or electoral performance;
4. Repeal the requirement in article V, section 44.3 (3) of the Colorado Constitution that the the Colorado independent redistricting commission maximize the number of politically competitive districts;
5. To require that congressional districting plans adopted in Colorado adhere to certain requirements, including:
 - a. A county must contain the maximum number of whole congressional districts possible if the county’s total population is greater than the population necessary for one or more congressional districts;
 - b. A county may not be divided among more than two congressional districts;
 - c. Geographic communities of interest must be preserved within a single congressional district when possible;
 - d. No part of one county may be added to another county unless necessary to achieve population equality;
 - e. The number of counties whose territory is contained in more than one congressional district must be as small as possible;

- f. The number of cities and towns whose territory is contained in more than one congressional district must be as small as possible; and
- g. Cities that are located in more than one county should be kept whole.

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. What is the rationale behind creating geographical communities of interest? What if this rationale or the boundaries of the geographical communities of interest change over time?
3. Subsection (1)(c) of section 44.3 of article V of the Colorado Constitution in the proposed initiative limits congressional districting plans “adopted by a commission, by the general assembly, or by initiative.” Under current Article V, Section 44 of the Colorado Constitution, the independent congressional redistricting commission is granted the exclusive authority to draw congressional districts. Does this proposed language intend to restore the General Assembly's authority to draw congressional districts or allow maps to be drawn via the citizen initiative process?"
4. Subsection (1)(c) of section 44.3 of article V of the Colorado Constitution in the proposed initiative says that a congressional districting plan “may not be created with, or influenced by, the use of partisan voter data or partisan electoral performance of any kind.” Is there a plan or method to verify whether or not a congressional districting plan was created with or influenced by partisan data?
5. The following questions relate to subsection (2) of section 44.3 of article V of the Colorado Constitution in the proposed initiative, which says that “any congressional districting ... must adhere to the criteria below in sequential order. The congressional redistricting plan must adhere to the first criterion in subsection (a) below, then adhere to each subsequent criterion.”
 - a. What does it mean to “adhere in sequential order”?

- b. How would the independent congressional redistricting commission first adhere to subsection (2)(a) and then adhere to each subsequent criterion?
6. In subsection (2)(a) of section 44.3 of article V of the Colorado Constitution in the proposed initiative, what does “the population necessary for one or more congressional districts” mean?
7. The proposed initiative uses “may” in many sections, such as proposed sections amending (1)(c), (2)(b), and (2)(d) of section 44.3 of article V of the Colorado Constitution. The word “may” is typically construed as permissive, while the words “shall” and “must” denote requirements. Did you mean to make proposed sections (1)(c), (2)(b), and (2)(d) optional and permissive rather than mandatory?
8. Subsection (2)(c) of section 44.3 of article V of the Colorado Constitution in the proposed initiative says that a congressional districting plan “must preserve geographic communities of interest ... unless the population of the whole geographic community of interest exceeds the population necessary for a congressional district.” What if a situation arises under which a geographic community of interest does not exceed the population necessary for a congressional district, but it is otherwise not possible to group all geographic communities of interest into their own congressional districts? Would you consider adding “As much as is reasonably possible,” which appears at the beginning of subsection (2)(a), to the beginning of this subsection (2)(c)?
9. Under the strict sequential order, if the independent congressional redistricting committee cannot add parts of counties together except for population equality under subsection (2)(d), how will the commission successfully group the multi-county geographical communities of interest required in subsection (2)(c)?
10. Section 2 of the proposed initiative repeals Article V, Section 44.3(3) in its entirety. What is the proponents' intent in removing the requirement to maximize politically competitive districts from the Colorado Constitution?
11. Is the effective date of the proposed initiative meant to be “on the date of the official declaration of the vote and proclamation of the governor?” If so, please consider amending the language of the effective date section.

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 constitutional 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, the amending clause for Section 1 of the proposed initiative should read “**SECTION 1.** In the constitution of the State of Colorado, **amend** (3) of section 44 of article V as follows:”
2. Standard drafting language for an effective date clause is as follows: "This act takes effect [Month Day, Year]."
3. The Colorado Constitution is divided into sections, and each section may contain subsections, paragraphs, subparagraphs, and sub-subparagraphs. The preceding level should be listed ahead of subsections, paragraphs, subparagraphs, and sub-subparagraphs. For example, “(3)” is needed in front of the initial “(a)” in Section 1 of the proposed initiative. This structure should be followed to ensure consistency in the structure of the statutes.
4. When adding new subsections, paragraphs, subparagraphs, and sub-subparagraphs between existing language in the Colorado Constitution, it is standard drafting practice to use numbering next to the existing subsection, paragraph, subparagraph, and sub-subparagraph designation, rather than renumbering succeeding subsections, paragraphs, subparagraphs, or sub-subparagraphs. For example, When adding the “Geographical Communities of Interest” definition in Section 1 of the proposed initiative, consider designating the definition a “(b.5)” instead of “(c)”.
5. It is standard drafting practice to not capitalize the initial letters of defined terms unless they refer to a proper noun or begin a sentence. Consider lowercasing the initial letters of your defined terms.

6. In some instances, a defined term has initial capitalization, and in other instances, the term does not have initial capitalization. Consider capitalizing the defined terms in a consistent manner.
7. When using roman numerals to denote subparagraphs, a period is not needed after the parentheses.
8. In Section 1 of the proposed initiative, consider deleting the colon after “means” in (3) (b) (I)