

# STATE OF COLORADO

## Colorado General Assembly

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## MEMORANDUM

**To:** Suzanne Taheri and Steven Ward

**From:** Legislative Council Staff and Office of Legislative Legal Services

**Date:** March 30, 2026

**Subject:** Proposed initiative measures 2025-2026 #304 through #307, concerning the constitutional right to hunt and fish

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.

Proposed initiatives 2025-2026 #302 through #307 were submitted by the same designated representatives as a series of proposed initiatives. The comments and questions raised in this memorandum address proposed initiatives 2025-2026 #304 through 307. 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 #302 and #303, except as necessary to fully understand proposed initiatives 2025-2026 #304 through 307. Comments and questions addressed in that

memorandum may also be relevant, and those questions and comments are part of this memorandum.

## **Purposes**

### **Purposes for Proposed Initiative 2025-2026 #304**

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

1. Establishing a right of the people of Colorado to hunt, fish, and harvest fish and wildlife;
2. Establishing that the right to hunt, fish, and harvest fish and wildlife created under the proposed initiative does not authorize trespass upon private property and does not modify statutes relating to trespassing or property rights; and
3. Allowing the Colorado parks and wildlife commission and the general assembly to continue regulating hunting, fishing, and wildlife management as long as the regulation is reasonable and necessary for sound scientific wildlife conservation and management, for public safety, or to preserve the future of statewide hunting and fishing opportunities.

### **Purposes for Proposed Initiative 2025-2026 #305**

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

1. Establishing a right of the people of Colorado to hunt, fish, and harvest fish and wildlife;
2. Establishing hunting and fishing as the preferred means of managing fish and wildlife in the state;
3. Establishing that the right to hunt, fish, and harvest fish and wildlife created under the proposed initiative does not authorize trespass upon private property and does not modify statutes relating to trespassing or property rights; and

4. Allowing the division of parks and wildlife and the general assembly to continue regulating hunting, fishing, and wildlife management as long as the regulation is reasonably related to a legitimate governmental interest.

### **Purposes for Proposed Initiative 2025-2026 #306**

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

1. Establishing a right of the people of Colorado to hunt, fish, and harvest fish and wildlife; and
2. Establishing that the right to hunt, fish, and harvest fish and wildlife created under the proposed initiative does not authorize trespass upon private property and does not modify statutes relating to trespassing or property rights.

### **Purposes for Proposed Initiative 2025-2026 #307**

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

1. Establishing a right of the people of Colorado to hunt, fish, and harvest fish and wildlife;
2. Establishing hunting and fishing as the primary and preferred means of managing fish and wildlife in the state; and
3. Establishing that the right to hunt, fish, and harvest fish and wildlife created under the proposed initiative does not authorize trespass upon private property and does not modify statutes relating to trespassing or property rights.

## **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 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 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. For proposed initiatives #304 and #305, subsection (1) of the provision begins with an introductory portion that reads, “(1) FOR THE PURPOSE OF HONORING HISTORIC HUNTING AND FISHING ACCESS, USE, AND OPPORTUNITIES, ....” The term “honoring” is vague. What is the intention of this introductory portion?
4. Each of the proposed initiatives, #304 through #307, have the following provision: “THERE IS HEREBY ESTABLISHED A RIGHT TO FISHING, HUNTING, AND THE TAKING OF FISH AND WILDLIFE ....” This version of the right does not contain the words “of the people of Colorado.” This raises three questions:
  - a. Is this right an individual right or collective right?
  - b. If it is an individual right, does that mean that a person cannot be denied a hunting license? For example, does that mean that a person who does not draw a hunting license has suffered a deprivation of rights?
  - c. If it is a collective right, how will it be enforced in court?
5. For proposed initiative #305, the provision provides the following: “THIS SECTION SHALL NOT LIMIT THE AUTHORITY OF THE DIVISION OF PARKS AND WILDLIFE OR THE GENERAL ASSEMBLY TO REGULATE HUNTING, FISHING, AND WILDLIFE MANAGEMENT THROUGH LAWS AND REGULATIONS THAT ARE REASONABLY RELATED TO A LEGITIMATE GOVERNMENTAL INTEREST.” This provision raises the following questions:
  - a. The provision uses the phrase “laws and regulations.” This raises a few issues:
    - i. The federal agencies adopt regulations. Colorado agencies, however, adopt rules, so the correct term for a Colorado agency is “rules.” Would the proponents consider using the term “rules” rather than “regulations”?

- ii. The term “laws” includes both statutes and rules. Black’s Law Dictionary defines “law” as “a body of rules of action or conduct prescribed by controlling authority, and having binding legal force; that which must be obeyed and followed by citizens subject to sanctions or legal consequence.” Black’s Law Dictionary 884 (6th ed. 1990). This definition covers rules (and regulations for that matter), so the phrase “laws and rules” is redundant. The provision could use either “laws” or “statutes and rules” without being redundant. Would the proponents consider revising this redundant phrase?
  - b. The provision names the division of parks and wildlife and implies that they may adopt laws or regulations. The parks and wildlife commission adopts rules. As mentioned in the memorandum for proposed initiatives #302 and 303, it is a best practice to not name a state agency in the Colorado Constitution. If the intention is to apply this provision to rulemaking, would the proponents consider changing this to apply to state agencies?
- 6. For proposed initiative #305, the provision provides the following: “THIS SECTION SHALL NOT LIMIT THE AUTHORITY OF THE DIVISION OF PARKS AND WILDLIFE OR THE GENERAL ASSEMBLY TO REGULATE HUNTING, FISHING, AND WILDLIFE MANAGEMENT THROUGH LAWS AND REGULATIONS THAT ARE REASONABLY RELATED TO A LEGITIMATE GOVERNMENTAL INTEREST.” The last clause, “LAWS ... THAT ARE REASONABLY RELATED TO A LEGITIMATE GOVERNMENTAL INTEREST,” is a reasonable summary of the rational basis review standard from the caselaw interpreting the Equal Protection Clause of Article XIV, Section 1 of the U.S. Constitution. If the proposed initiative does not limit the authority of the state beyond that of the Equal Protection Clause, then one interpretation of this provision would be that it does nothing. A court is required to give each word of a constitutional provision meaning, so a court would have to harmonize subsection (1) of proposed initiative #305 with this “not limiting” provision. This harmonization may result in the proposed initiative being interpreted as intended, but it may not. It is generally considered a best practice to indicate the relationship between provisions to avoid the possibility of the provision being interpreted in a way that was not intended. An example would be “THIS SECTION DOES NOT PREVENT THE GENERAL ASSEMBLY AND AN AGENCY OF THE STATE OF COLORADO FROM REGULATING HUNTING AND FISHING IF THE LAW DOES NOT VIOLATE SUBSECTION (1) OF THIS SECTION AND THE

LAW IS REASONABLY RELATED TO A LEGITIMATE GOVERNMENTAL INTEREST.” Would the proponents consider revising this provision to make the relationship between it and subsection (1) clear?

## **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. This comment applies to proposed initiative #304. It is standard drafting practice to not capitalize standalone titles of government officers or names of agencies. For example, in subsection (3) of the proposed initiative, “Colorado Parks and Wildlife Commission” should be shown as the “Colorado parks and wildlife commission.”
2. This comment applies to proposed initiative #304. It is standard drafting practice to not capitalize "general assembly."
3. For each of the proposed initiatives, the new section is numbered as 12c. The letter is normally used when multiple initiated measures have the same numbering. This section may be given a whole number without the letter. If the desire is to be placed next to section 12b, concerning wildlife, section 13 of article XVIII of the Colorado Constitution is available for use.