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MEMORANDUM

To: John Brackney and Robin Carnes

From: Legislative Council Staff and Office of Legislative Legal Services

Date: April 1, 2026

Subject: Proposed Initiative Measures 2025-2026 #327 and #328, 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 #327** and **#328** 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 #327** and **#328**.

Purposes

Purposes for Proposed Initiative 2025-2026 #327

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

1. To make findings and declarations of the people of the state of Colorado;
2. To create temporary congressional districts to be used in the 2028 and 2030 congressional elections that set new boundaries for Colorado's eight congressional districts;
3. To require the Colorado Supreme Court to review the temporary congressional districts and approve the temporary congressional districts unless the court finds that the congressional districts do not substantially comply with requirements of the initiative;
4. To, in 2031 and every ten years thereafter, require the congressional redistricting commission established in the Colorado Constitution to engage in congressional redistricting.

Purposes for Proposed Initiative 2025-2026 #328

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

1. To make findings and declarations of the people of the state of Colorado;
2. To create temporary congressional districts to be used in the 2028 and 2030 congressional elections that set new boundaries for Colorado's eight congressional districts;
3. To require the district court of the city and county of Denver to review the temporary congressional districts and approve the temporary congressional districts unless the court finds that the congressional districts do not substantially comply with requirements of the initiative;
4. To, in 2031 after the 2030 decennial census and every ten years thereafter, require a congressional redistricting commission to engage in a redistricting process.

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 proposed initiative 2025-26 #327 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. Subsection (1.5) of section 44 of article V of the Colorado Constitution in proposed initiative 2025-26 #327 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 of the Colorado Constitution or in section 2-1-505.5 (1) of the proposed initiative apply to the temporary maps?
4. The following questions relate to the new section 2-1-101.7 (2) of proposed initiative 2025-26 #327 and to section 2-1-105 (2) of proposed initiative 2025-26 #328:
 - a. What is the difference between a “voter tabulation district” as used by the U.S. Census Bureau and a “block” as defined by the U.S. Census Bureau?
 - b. What is the purpose of using both voter tabulation districts and blocks to create congressional districts?
 - c. Instead of mixing voter tabulation districts and blocks, consider using a block assignment table that lists each block with its corresponding congressional district number so that the maps can be verified.

5. The following questions relate to subsection (1.5)(b) of section 44 of article V of the Colorado Constitution of proposed initiative 2025-26 #327 and to section 2-1-105 (7) of proposed initiative 2025-26 #328:
 - a. The proposed initiatives require courts to review and approve the redistricting plans to ensure that the plans are in compliance with the requirements of the proposed initiatives. The initiatives do not specify a deadline by which the courts must complete review of the redistricting plans. 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 courts are required to complete review?
 - b. In proposed initiative 2025-26 #328, 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?
 - c. What is the difference between requiring the Supreme Court to review redistricting plans and requiring that the Denver district court conduct this review?
6. Section 2-1-105 (8) of proposed initiative 2025-26 #328 says that “the congressional redistricting commission established pursuant to section 2-1-105.2 (1) shall engage in the redistricting process as specified in section 2-1-105.2 through 2-1-105.7 in 2031...”. Sections 2-1-105.2 through 2-1-105.7 do not currently exist in the Colorado Revised Statutes, and the initiative does not propose to add those sections. In addition, section 2-1-105 (1.5)(b) of proposed initiative #2025-26 #328 refers to single member districts for congress set forth in section 2-1-101.7, which also does not currently exist in the Colorado Revised Statutes and is not created in the proposed initiative. Why does the initiative refer to nonexistent sections? If your intent was to refer to other sections of law, what sections did you intend to reference?
7. Section 4 of proposed initiative 2025-26 #328, the effective date, says that the measure takes effect only if “a ballot issue repealing sections 44, 44.1, 44.2, 44.3, 44.4, 44.5, and 44.6 of article V of the Colorado constitution is approved by the people” at the November 2026 election.

- a. Is it your intent that the proposed initiative will take effect only if the constitutional framework for congressional redistricting is repealed in another proposed initiative? If so, why is the proposed initiative contingent on the repeal of the constitutional provisions that address constitutional redistricting?
- b. What is your intent if a ballot measure repealing sections 44, 44.1, 44.2, 44.3, 44.4, 44.5, and 44.6 of article V of the Colorado constitution is approved and it creates eight different congressional districts than the ones created in this measure? How will the sections in this measure and the sections of the other measure interact?

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. It is standard drafting practice to only capitalize the initial letter of a word in a headnote if it begins the headnote or is a proper noun. Consider changing “People” to start with a lowercase “p” in the headnote for 2-1-100.5 in the proposed initiatives.
2. When using paragraphs, paragraph letters should be in lowercase letters, not in small capital letters. Consider using a lowercase letter in the first paragraph (A) under (1.5) of Section 2 in proposed initiative 2025-26 #327.
3. It is standard drafting practice to use commas to connect two independent clauses connected by a conjunction and not use a comma when the clauses connected by a conjunction are dependent.
4. The following is the standard drafting language used for creating a definitions section:

As used in this [title/article/part/section/subsection], unless the context otherwise requires:

- (1) “[The term]” means [the definition of the term].
- (2) “[The term]” means [the definition of the term].

5. Definitions should be in alphabetical order so that readers can find them more easily.
6. Delete the comma following “(1.5)” in the amending clause for Section 2 of proposed initiative #2-25-26 #327.
7. Delete the extra comma following “(1.5)” in the amending clause for Section 2 of proposed initiative 2025-26 #328.
8. In section 2-1-101.7 (4)(b) of proposed initiative #327 and in section 2-1-105 (4)(b) of proposed initiative 2025-26 #328, “or” is misspelled.