

# STATE OF COLORADO

## Colorado General Assembly

Natalie Castle, Director  
Legislative Council Staff

**Colorado Legislative Council**  
200 E. Colfax Ave., Room 011  
Denver, Colorado 80203-1716  
303-866-3521  
lcs.ga@coleg.gov



Ed DeCecco, Director  
Office of Legislative Legal Services

**Office of Legislative Legal Services**  
1375 Sherman St., Suite 300  
Denver, Colorado 80261  
303-866-2045  
olls.ga@coleg.gov

## MEMORANDUM

**To:** Hazar Mavet Espinoza & Michael Scott Freeman II

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

**Date:** April 1, 2026

**Subject:** Proposed Initiative Measure 2025-2026 #414, Concerning Election Procedures

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.

## Purposes

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

1. To eliminate universal mail-in voting for residents physically present in the state and restrict mail-in voting to eligible Colorado electors temporarily residing outside the state;
2. To require voters to present a valid government-issued identification card or a completed Voter Identification Verification Affidavit form to an election official to register to vote, submit a ballot, or utilize a drop box;
3. To mandate a statewide voter registration roll cleanup requiring all currently registered voters to verify their identification in person with an election official within a 75-day period to avoid removal from the voter rolls;
4. To prohibit the use of electronic and electromechanical voting systems and vote counting machines in any election within the state and require their destruction within 90 days;
5. To establish manual, paper-based ballot tallying procedures using standardized state and federal tallying sheets, along with strict chain of custody protocols utilizing hand-held counters and initialed ballot envelopes;
6. To grant registered Colorado electors the right to observe election operations;
7. To prohibit news organizations from reporting election tallies or declaring winners based on information not provided by a verified Colorado election official, unless clearly distinguishable as an opinion piece;
8. To create new criminal offenses related to elections;
9. To establish civil and criminal liability, in both official and individual capacities, for election officials, law enforcement, prosecutors, and judges who fail to adequately investigate or prosecute suspected violations of the proposed initiative;
10. To create causes of action for citizens to petition courts for recounts, audits, or the appointment of special prosecutors to investigate suspected election crimes; and

11. To provide legal immunity from criminal and civil prosecution for citizens who use reasonable force to intervene and stop suspected election crimes until law enforcement arrives.

## **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 proposed initiative appears to require practices that directly conflict with multiple federal election laws, including the National Voter Registration Act regarding proof of citizenship and 90-day blackout periods; the Help America Vote Act and the Americans with Disabilities Act regarding accessibility requirements and the prohibition of electronic voting and signature interfaces; the Voting Rights Act; and the Uniformed and Overseas Citizens Absentee Voting Act regarding mail ballots. How do the proponents intend for the proposed initiative to be implemented without running afoul of federal supremacy and preemption, particularly when the proposed initiative threatens state officials with criminal prosecution for adhering to federal court orders?
4. The proposed initiative mandates third-party access to hand-marked ballots and public release of surveillance footage. How do these provisions interact with article VII, section 8 of the Colorado Constitution which guarantees a secret ballot and the existing Colorado Open Records Act exemptions protecting security arrangements?
5. The proposed initiative establishes an extensive new enforcement framework that includes waiving sovereign immunity for public entities, prohibiting the legal defense or reimbursement of election workers, imposing strict liability for administrative clerical errors, granting universal standing for citizens to file civil

lawsuits, and decentralizing investigative authority to local sheriffs. Do the proponents anticipate a significant fiscal and operational impact on local governments regarding liability insurance, the recruitment of volunteer election judges, and the potential influx of coordinated citizen-led litigation outside of the state's existing uniform election complaint process?

6. Proposed section 1-1-104 (9.7) excludes from the definition of a "drop box" a mail ballot box maintained at a voter service and polling center "when an election official is present to check the elector's identification card ... and accept ballots for tallying within an election". However, proposed section 1-7-310 (7) mandates that "drop boxes must be manned at all operating hours to check voters' for government issued identification". How, if at all, do these definitions interact?
7. How will the Secretary of State provide the notice required by proposed section 1-2-202.5 (3)(f) concerning "removal from the previous state(s)'s voter registration rolls" across multiple, out-of-state jurisdictions?
8. Proposed section 1-2-227 (1)(a) declares that registration records, specifically including "copies of scans of government-issued identification used for voter registration," are "public records subject to examination by any person" who has the "right to make copies of the records". Does making scans of electors' driver's licenses and passports available for public copying conflict with existing state or federal privacy laws protecting such sensitive identifying documents? Similarly, does classifying the citizen-submitted "Voter Identification Verification Affidavits" allowed pursuant to proposed section 24-72-114 and the documentary proof of citizenship as open public records conflict with existing state and federal laws that strictly prohibit the public disclosure of personally identifiable information?
9. Proposed section 1-2-302 (3.5)(f) states that the threshold for emergency removal of 10,000 ineligible electors "does not require identification of 10,000 actual registrations and may be based on a reasonable sample size ... that if extrapolated to a larger size would result in 10,000 or more ineligible electors." How can the Secretary of State physically remove voters from the rolls based on an extrapolated statistical sample without identifying the specific, individual registrations that are allegedly ineligible?
10. The following questions relate to proposed section 1-2-501:
  - a. Proposed section 1-2-501 (2)(c) requires an elector to "show their ID card to an election official and submit a Voter Identification Verification Affidavit signed by both the elector and the verifying election official." Because section 1-2-501 currently governs mail and agency registration, how can an

- elector practically show an identification card to an election official and obtain a jointly signed affidavit when registering to vote through the mail?
- b. Does this proposed section effectively eliminate mail-in voter registration by creating an in-person requirement, or does the proposed initiative intend to require a follow-up in-person visit before a mail-in registration is considered active?
11. What specific statutory procedures and timelines must county clerks and recorders follow before canceling a registration under proposed section 1-2-605 to ensure electors receive adequate due process and notice?
  12. Regarding proposed section 1-5-501, the amended language requires governing bodies to provide a "sufficient number of voting booths" for paper ballots while removing existing references to voting machines or electronic voting equipment. Because the initiative mandates a transition strictly to paper ballots, the time required for a voter to cast a ballot in person will likely increase. What is a "sufficient number" of voting booths to prevent implementation issues such as unreasonable wait times?
  13. The following questions relate to proposed section 1-7.5-103:
    - a. Regarding proposed section 1-7.5-103 (4), which redefines a "mail ballot election" as an "obsolete term," does the proposed initiative intend to prohibit all local governments, school districts, and special districts from conducting their independent elections by mail?
    - b. If the intent of proposed section 1-7.5-103 (4) is to end all mail ballot elections, does this conflict with Title 31 or other authorizing legislation that explicitly grants home rule municipalities the right to determine their own methods for conducting local elections?
  14. The following questions relate to proposed section 1-10-103:
    - a. Existing law requires county canvass boards to transmit the official abstract of votes cast to the secretary of state no later than the twenty-second day after an election. Because the proposed initiative mandates the manual hand-counting of all ballots, does the proposed initiative create an implementation impossibility by not extending the reporting deadlines in section 1-10-103?
    - b. If a county with a large number of voters is physically unable to finish manually hand-tallying all paper ballots within the twenty-two-day deadline mandated by section 1-10-103, what are the legal consequences for the county, and are those voters' ballots at risk of being excluded from the statewide total?

15. Regarding proposed section 1-10-105, the secretary of state must compile the returns, resolve imperfect returns, and certify the statewide election results. If the manual tallying process required by the proposed initiative results in a higher rate of human clerical errors across multiple counties, how does the secretary of state resolve irreconcilable returns under this section without the ability to rely on electronic risk-limiting audits or machine recounts?
16. Proposed section 16-4-102 seems to amend the right to bail, potentially denying bail or setting unique bond restrictions for individuals charged with the newly created election offenses. Does this conflict with article II, section 19 of the Colorado Constitution?
17. Proposed section 18-11-101 creates the concept of "treasonous election engineering" within the state's criminal definition of treason. Does this conflict with article II, section 9 of the Colorado Constitution?
18. The proposed new definitions in section 1-7.5-103 would be added to the "Mail Ballot Election Act". Because the proposed initiative previously amends section 1-7.5-103 (4) to define a "mail ballot election" as an "obsolete term," does placing these eleven new definitions within an ostensibly obsolete article create confusion? If those definitions are added to section 1-7.5-104, then the definitions will only apply to those terms when they are used in article 7.5 of title 1, which is the "Mail Ballot Election Act." If the proponents intend those definitions to apply to any use of those terms within the entire "Uniform Election Code of 1992," articles 1 through 13 of title 1, the proponents should consider moving the definitions to section 1-1-104, which defines terms for use throughout the election code. The numbering used for these new definitions on pages 2-3 of the proposed initiative, starting with (52) "Colorado Election Integrity Protection Act" and ending with (62) "Treasonous Election Engineering," suggest that they are intended to be added to section 1-1-104, rather than to section 1-7.5-104.
19. In current law, the definition of "watcher" is in section 1-1-104 (51), but in the proposed initiative, the term, as being amended, is included in section 1-7.5-103 as subsection (51). It appears that this definition of "watcher" is intended to be included within section 1-1-104 and should be relocated to that provision in the proposed initiative.
20. The measure includes several different provisions that are identified with the same section or subsection number. For example, section 1-2-302 (9) appears twice in the proposed initiative, on page 25 related to notifying the state of a voter's prior registration when the voter registers in Colorado, and also on page 29, related to requiring clerks and recorders to remove ineligible electors from the

voter rolls. If these two provisions use the same number, it will not be clear if one they are both supposed to appear in the law, with the same number, or if one supersedes the other. If the proposed initiative is approved by the voters, this ambiguity will cause confusion as to how the new law should be published in the Colorado Revised Statutes. If proponents intend that both of these provisions would be added to the law, please consider identifying them with different numbers. See also, two versions of section 1-13-727, on pages 33 and 59-60, and 2 versions of section 1-13-728, on pages 34-35 and 60. How does the newly created offense of "unlawful manipulation of voter tallies" in the second version of proposed section 1-13-727 on page 59 of the proposed initiative differ from existing election fraud and tally-tampering statutes? Does the initiative create conflicting criminal penalties for the same underlying conduct?

21. The following questions relate to the first version of proposed section 1-13-728 on pages 34-35 of the proposed initiative:
  - a. This proposed section regulates the "reporting of election results by the press." Because the First Amendment to the United States Constitution and article II, section 10 of the Colorado Constitution broadly protect the freedom of speech and the freedom of the press, does this proposed section constitute an unconstitutional prior restraint on free speech?
  - b. What is meant by "the press" in this proposed section? Does this only include credentialed, traditional news organizations, or does it extend to anyone who posts election-related content online?
22. To the extent that the proposed initiative penalizes prosecutorial officials if they "aid, abet, conceal, or otherwise obscure a violation of [the proposed initiative]" by choosing not to prosecute alleged election infractions, does this conflict with article VI, section 13 of the Colorado Constitution, which has been interpreted to grant prosecutors broad discretion to determine whether to prosecute alleged criminal activity?
23. Proposed sections 1-13-730 creates criminal penalties for individuals who "delay, obstruct, collude, or attempt to collude with others to obstruct" a legally ordered recount, audit, or forensic audit by 24 hours or more. Proposed section 1-13-738 makes it a felony "for any person to delay, obstruct, or collude with others to obstruct a lawfully ordered recount, audit, or forensic audit of a Colorado election by 96 hours or more." Proposed section 1-13-744 makes it a felony "for any person to delay, obstruct, or collude with others to obstruct a lawfully ordered recount, audit, or forensic audit of a Colorado election by 168 hours or more." Does this timeline conflict with existing law that allows courts to establish reasonable,

secure schedules for recounts based on county size, available personnel, and funding?

24. Proposed section 1-7-312 allows for "forensic audits" of election results. What do the proponents mean by the term "forensic audit"?
25. Does proposed section 1-7-316, which mandates that the General Assembly "may not pass laws contradicting [the proposed initiative] without voter approval through an election," conflict with article V, section 1 of the Colorado Constitution?
26. Does proposed section 1-13-746 (4), which grants local law enforcement agencies concurrent or primary jurisdiction to independently investigate and seize materials related to alleged election offenses, conflict with the centralized investigative authority of the attorney general and the secretary of state under current law?

## 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 unnecessary to include "**Amend:**", "**Add:**", or "**Repeal:**" prior to the headnotes of each section being amended.
2. The provisions of the statutory section in current law that are being modified in the measure should be copied into the measure exactly as they appear in the most recent version of the Colorado Revised Statutes. Then, to make changes to the current statutory text, it is standard drafting practice to show language being removed from the Colorado Revised Statutes in stricken type, e.g., ~~stricken type~~, and to language being added to the statutes in small capital letters. This makes it clearer what changes are being proposed to the law. To find small capital letters in Microsoft Word, go to the Home tab, click the arrow in the bottom right corner of the Font group, and in the Font dialog box, check the Small Caps checkbox under Effects.
3. While new statutory text should appear in small capital letters to show the language being added to the C.R.S., the headnote, or heading, for each statute should remain in lowercase letters.

4. Each statutory 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. An amending clause should only include an explanation of the changes to **a single section of statute** and is written in lowercase type and follows a specific format.

For example:

**SECTION 1.** In Colorado Revised Statutes, 1-1-104, **amend** (9.7), (9.8), and (51); and **add** (52), (53), (54), ... ((61), and (62) as follows:

5. When multiple changes are proposed to a single section of statute, it is standard drafting practice to include all of those changes in a single section in a proposed initiative. For example, the proposed initiative proposes to amend section 1-2-202.5 (3), and then in a separate section of the initiative, proposes to amend section 1-2-202.5 (7). These two provisions should be included together, with a single amending clause that reads:

**SECTION 5.** In Colorado Revised Statutes, 1-2-202.5, **amend** (3) and (7) as follows:

6. Typically, standard drafting practice is to list statutes being amended or added in a proposed initiative in sequential order, as they appear in the Colorado Revised Statutes.