STATE OF COLORADO
Colorado General Assembly

MEMORANDUM

To: John Retrum & Craig Donaldson

From: Legislative Council Staff and Office of Legislative Legal Services

Date: March 13, 2026

Subject: Proposed Initiative Measures 2025-2026 #263, Concerning elect members of the General Assembly by open list proportional representation

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 #263 was submitted by the same designated representatives as a part of a group of related proposed initiatives, including proposed initiatives 2025-2026 #262 through #264. The comments and questions raised in this memorandum do not include comments and questions that were addressed in the memoranda for proposed initiatives 2025-2026 #262 and #264, except as necessary to fully understand proposed initiative 2025-2026 #263. Comments and questions

addressed in those memoranda may also be relevant, and those questions and comments are considered part of this memorandum.

Purposes

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

1. To change the method of electing members of the Colorado General Assembly to open list proportional representation;

2. To divide the state into seven senatorial districts and thirteen representative districts, with five members to be elected from each district;

3. To guarantee that a political party receives at least one seat in a district if its nominees collectively receive more than one-sixth of the votes cast, and at least three seats if they receive more than half of the votes cast;

4. To require that all five state senators from a given district be elected at the same general election;

5. To amend the criteria for the independent legislative redistricting commission by redefining a competitive district as one having a reasonable potential for the party affiliation of at least one of the district's representatives to change;

6. To eliminate primary elections for candidates for the General Assembly and require instead that all political party nominations for the General Assembly be made by assembly or convention;

7. To authorize political parties, joint slates, and unaffiliated slates to nominate up to five candidates in each legislative district and determine the rank order in which they appear on the ballot, with the ballot order of the slates to be determined by lot;

8. To create petitioning processes for minor political parties and unaffiliated candidates to run as multi-member slates;

9. To require that ballots group candidates by their political party, joint slate, or unaffiliated slate, and allow voters to vote for one candidate;

10. To establish the Jefferson Method of proportional representation as the mathematical process for tallying votes and awarding seats to candidate slates based on their proportional vote share; and

11. To require that any vacancy in the General Assembly be filled by a member of the same political party as the vacating member.

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. The following questions relate to section 10 of the proposed initiative:

   a. Proposed section 1-4-702.5 (1) eliminates primary elections for the General Assembly and mandates that party nominations are made by assembly or convention. Section 1-4-601 (2)(a) states that candidates receiving thirty percent or more of the votes at an assembly are designated for the primary ballot. Because the primary election is eliminated for these candidates, if more than five candidates meet a party's threshold for nomination at the assembly, what is the statutory mechanism for reducing the field to the maximum slate size of five candidates?

   b. How does the requirement in proposed section 1-4-702.5 to nominate a rank-ordered slate of up to five candidates interact with section 1-4-601, which mandates a thirty-percent delegate vote threshold for designation to a primary ballot that no longer exists for this office?

   c. Proposed section 1-4-702.5 (3) allows political parties to "jointly nominate the same rank-ordered slate of candidates". If two political parties agree to jointly nominate a slate, but their respective assemblies or party rules result in a different rank order for the same five candidates, how is the final rank order for the joint slate determined?

   d. Proposed section 1-4-702.5 (2) dictates that "the ballot order of the political party slates shall be determined by lot". Which specific election official is

responsible for conducting this lot, and is there a statutory deadline for when this lot must occur?

   e. Does the requirement in proposed section 1-4-702.5 (2) to determine ballot order by lot apply exclusively to "political party slates," or does it also dictate the ballot arrangement for joint slates and unaffiliated slates?

   f. Proposed section 1-4-702.5 (2) requires political parties to make their nominations public "not later than seventy-five days before the general election". Does this new timeline conflict with or override the timeline in section 1-4-604?

3. The following questions relate to sections 11 and 12 of the proposed initiative:

   a. Proposed section 1-4-802 (1)(i)(III) requires that petitions for unaffiliated slates "must be filed no later than 5 P.M. on the sixtieth day after the primary election". Since the primary election is held on the last Tuesday in June, this deadline would fall in late August. Does this late-August deadline provide county clerks and the Secretary of State sufficient time to verify petition signatures and certify the general election ballot?

   b. This section amends section 1-4-801 (1) and (2)(b) to explicitly exclude candidates for the General Assembly from designating party candidates by petition. When combined with proposed section 1-4-702.5 (1), which states that party nominations "shall be made by assembly or convention", is it the proponents' intent to completely eliminate the ability of major political party candidates for the General Assembly to access the ballot via petition? If a candidate fails to make the slate at the assembly, do they have any alternative statutory route to appear on the general election ballot?

4. The following questions relate to section 13 of the proposed initiative:

   a. Proposed section 1-4-1304 (1.5)(b)(I) requires that a minor political party assembly "shall be held no later than seventy-three days preceding the primary election". However, proposed section 1-4-702.5 (2) allows political parties to finalize nominations up to "seventy-five days before the general election". Because candidates for the General Assembly no longer participate in the primary election, are minor political parties still required

to nominate their legislative slates prior to the primary election deadline, or are they subject to the later general election deadline?

b. Proposed section 13 of the initiative amends section 1-4-1304 (1.5)(b)(II) to explicitly exempt candidates for the General Assembly from the requirement that a candidate receive thirty percent of assembly votes to be designated. Because the initiative removes this thirty-percent threshold for legislative candidates and eliminates the primary election, what are the statutory voting mechanics within a minor political party assembly to narrow down a field of candidates to a maximum slate of five?

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 show language being removed from the Colorado Constitution or the Colorado Revised Statutes in stricken type, e.g., ~~stricken type~~. Language that is being newly added should be shown in small capital letters, while language that currently exists and is not being removed should be shown in standard lowercase text, even if the existing language is being moved within the section. Section 1 of the proposed initiative has existing constitutional language written in small capital letters and removes existing constitutional text without showing it in stricken type.

2. Constitutional and statutory sections that are not being amended, repealed, or added do not need to be included in the initiative. For example, in section 5 of the proposed initiative, (3)(a) does not need to be included.

3. Section 1 of the proposed initiative should show current subsections (2) and (3) in striketype with the new language of subsections (2) and (3) after the strike type in small caps. There should be no strike type of (2) and (3) in subsections (4) and (5) The amending clause should state: "In the constitution of the state of Colorado, section 2 of the article V, amend (2) and (3), and (3), (4), and (5) as follows:".

4. In section 1 of the proposed initiative, the provisions of subsections (2)(a) and (2)(b) should start with a capital letter.

5. Section 16 of the proposed initiative adds section 1-7-503 to the Colorado Revised Statutes, but that section already existed and has been repealed. As such, the amending clause should say to **add** section 1-7-504" and the section should be renumbered to 1-7-504.