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MEMORANDUM

To: Amy Spicer and Kyle Beaulieu

From: Legislative Council Staff and Office of Legislative Legal Services

Date: March 31, 2026

Subject: Proposed Initiative Measures 2025-2026 #318, 2025-2026 #319, 2025-2026 #320, and 2025-2026 #321, Concerning a Four-Year Protection for Statutory Initiatives

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 #318** through **#321** 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 #318** through **#321**.

Purposes

Purposes for Proposed Initiative 2025-2026 #318

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

1. To prohibit the General Assembly from interfering with a statutory measure initiated by the people (initiated statutory measure) for four years after the effective date of the measure;
2. To prohibit the General Assembly from frustrating the operation, implementation, or administration of an initiated statutory measure for four years after the initiated statutory measure's effective date; except that the General Assembly may:
 - a. Repeal the initiated statutory measure in whole by a two-thirds vote of all members of each house of the General Assembly; and
 - b. Amend the initiated statutory measure if the amendment furthers the initiated statutory measure's purpose and implementation; and
3. To specify that for four years after an initiated statutory measure's effective date, the measure's provisions prevail over any provision in a bill passed by the General Assembly before the initiative's effective date, to the extent that the bill's provisions conflict with or frustrate the initiated statutory measure's purpose or implementation.

Purposes for Proposed Initiative 2025-2026 #319

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

1. To make declarations of the people of the state of Colorado;
2. To prohibit the General Assembly from interfering with an initiated statutory measure for four years after the effective date of the measure;
3. To prohibit the General Assembly from frustrating the operation, implementation, or administration of an initiated statutory measure for

four years after the initiated statutory measure's effective date; except that the General Assembly may:

- a. Repeal the initiated statutory measure in whole by a two-thirds vote of all members of each house of the General Assembly; and
 - b. Amend the initiated statutory measure if the amendment furthers the initiated statutory measure's purpose and implementation; and
4. To specify that for four years after an initiated statutory measure's effective date, the measure's provisions prevail over any provision in a bill passed by the General Assembly before the initiative's effective date, to the extent that the bill's provisions conflict with or frustrate the initiated statutory measure's purpose or implementation.

Purposes for Proposed Initiative 2025-2026 #320

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

1. To prohibit the General Assembly from interfering with an initiated statutory measure;
2. To prohibit the General Assembly from frustrating the operation, implementation, or administration of an initiated statutory measure for four years after the initiated statutory measure's effective date; except that the General Assembly may:
 - a. Repeal the initiated statutory measure in whole by a two-thirds vote of all members of each house of the General Assembly; and
 - b. Amend the initiated statutory measure if the amendment furthers the initiated statutory measure's purpose and implementation; and
3. To specify that an initiated statutory measure's provisions prevail over any provision in a bill passed by the General Assembly before the initiative's effective date, to the extent that the bill's provisions conflict with or frustrate the initiated statutory measure's purpose or implementation.

Purposes for Proposed Initiative 2025-2026 #321

1. To make declarations of the people of the state of Colorado;

2. To prohibit the General Assembly from interfering with an initiated statutory measure;
3. To prohibit the General Assembly from frustrating the operation, implementation, or administration of an initiated statutory measure for four years after the initiated statutory measure's effective date; except that the General Assembly may:
 - a. Repeal the initiated statutory measure in whole by a two-thirds vote of all members of each house of the General Assembly; and
 - b. Amend the initiated statutory measure if the amendment furthers the initiated statutory measure's purpose and implementation; and
4. To specify that an initiated statutory measure's provisions prevail over any provision in a bill passed by the General Assembly before the initiative's effective date, to the extent that the bill's provisions conflict with or frustrate the initiated statutory measure's purpose or implementation.

Substantive Comments and Questions

The substance of the proposed initiatives 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. The Colorado Constitution requires the General Assembly to pass a balanced budget every year. Because the proposed measures do not allow the General Assembly to defund an initiated statutory measure for four years, do the proponents intend that any initiated statutory measure would be prioritized over existing state programs, such as public education, health care, and transportation?
3. The following questions relate to the provisions of the proposed initiatives specifying that the General Assembly shall not "interfere with" an initiated statutory measure or "frustrate" the operation, implementation, or administration of an initiated statutory measure:

- a. What is the difference between interfering with an initiated statutory measure and frustrating the operation, implementation, or administration of an initiated statutory measure?
 - b. Proposed initiatives #318 and #319 state that the General Assembly “shall not interfere with” an initiated statutory measure “for four years after its effective date...”. However, the four-year limitation on prohibition from interfering with an initiated statutory measure is not included in proposed initiatives #320 and #321. What is the effect of not including the four-year limitation on this prohibition in these two proposed initiatives?
 - c. Proposed initiatives #320 and #321 specify that the General Assembly shall not interfere with an initiated statutory measure without exception, but also allow the General Assembly to repeal the initiated statutory measure or amend the initiated statutory measure for limited purposes within four years of the effective date of the initiated statutory measure. Are these two provisions in conflict? If the General Assembly repeals the initiated statutory measure or amends it as allowed in the proposed initiative, would those actions not be considered interfering with the initiated statutory measure?
 - d. Once the four-year period has passed, is it the designated representatives’ proponents’ intent that the legislature can no longer take any action on an initiated statutory measure?
4. How will it be determined if legislative action “in any way frustrate[s] the operation, implementation, or administration” of an initiated statutory measure outside the enumerated actions, such as repeal, identified in the proposed initiative? Which individual or entity is responsible for making that determination?
 5. How will it be determined if an amendment “furthers the [initiated statutory] measure’s purpose and implementation”? Which individual or entity is responsible for making that determination?
 6. The following questions relate to the proposed initiatives’ requirement that an initiated statutory measure prevail over existing law or a bill passed before the initiated statutory measure’s effective date, to the extent the law or bill conflicts with or frustrates the initiated statutory measure’s purpose or implementation:

- a. What individual or entity is responsible for determining whether an existing law or prior bill conflicts with or frustrates the initiated statutory measures' purpose or implementation?
- b. If the initiated statutory measure did not specifically repeal laws that were deemed to conflict with the initiated statutory measure, is the General Assembly required to identify and repeal the conflicting law?
- c. How can a bill that passed before an initiated measure is considered by the voters and is current law when an initiated measure is approved by the voters frustrate the purpose of the initiated measure?
- d. Proposed initiatives #318 and #319 specify that this provision applies for "four years after an initiated statutory measure's effective date". Is it the proponents' intent in proposed initiatives #318 and #319 that the General Assembly can amend a statutory initiative more than four years after the measure's effective date even if it would no longer prevail over previous legislation and even if it "conflicts with or frustrates" the initiated measure's intent?
- e. Proposed initiatives #320 and #321 do not include the same four-year limitation for this provision that is included in proposed initiatives #318 and #319. By not including this language, is it the proponents' intent to require that an initiated measure will always prevail over any bill passed by the General Assembly before the initiative's effective date?

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 use commas to connect two independent clauses connected by a conjunction. In the proposed amendments to Article V, section 1 (4)(a) of the Colorado Constitution in the proposed initiatives, consider adding a comma between "MEASURE" and "AND" in the clause "EXCEPT THAT THE GENERAL ASSEMBLY MAY REPEAL IN WHOLE THE MEASURE WITHIN

FOUR YEARS OF ITS EFFECTIVE DATE BY A TWO-THIRDS VOTE OF ALL MEMBERS OF EACH HOUSE OF THE GENERAL ASSEMBLY IN A BILL THAT HAS THE SOLE OPERATIVE EFFECT OF REPEALING THE MEASURE AND THE GENERAL ASSEMBLY MAY AMEND THE MEASURE WITHIN FOUR YEARS OF ITS EFFECTIVE DATE IF THE AMENDMENT FURTHERS THE MEASURE'S PURPOSE AND IMPLEMENTATION.”

2. The provisions of the current constitutional section that are being modified in the proposed initiative should be copied into the initiative exactly as they appear in the most recent version of the Colorado Constitution. If you are removing or changing language as it currently appears in the Colorado Constitution, it is standard drafting practice to show the language being removed in stricken type, e.g., ~~stricken type~~. In article V section 1 (4)(a) of the Colorado Constitution, there is a cross reference to “paragraph (b) of this subsection (4)” in current law that does not appear in the proposed initiatives. While the cross reference has been updated in accordance with standard drafting practice, the original cross reference is not included in the proposed initiatives. Please include the original cross reference in the proposed initiatives and reflect the original language in strike type.