

# STATE OF COLORADO

## Colorado General Assembly

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## MEMORANDUM

**To:** Emerson Sturgis and Marilee Sturgis

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

**Date:** March 31, 2026

**Subject:** Proposed Initiative Measure 2025-2026 #292, concerning Colorado participation in foreign affairs

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 #292** was submitted by the same designated representatives as a part of a group of related proposed initiatives, including proposed initiatives **2025-2026 #287** through **#301**. 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 #287 through #301**, except as necessary to fully understand proposed initiative **2025-2026 #292**. 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 amendment to the Colorado Constitution appear to be:

1. To give the governor the power to make treaties and to propose withdrawal from treaties with the approval of the General Assembly;
2. To give the governor the power to nominate ambassadors and the General Assembly the power to approve or reject the nominations;
3. To give the governor the power to appoint sub-ambassador-level diplomatic representatives;
4. To give the governor the power to represent Colorado at meetings between world leaders; and
5. To give the governor the power to receive ambassadors.

## **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. What do the following terms mean, and would the proponents consider defining them?
  - a. Treaty;
  - b. Ambassador; and
  - c. Sub-ambassador-level diplomatic representative
3. The initiative gives the governor the authority to make or withdraw from treaties and the authority to nominate ambassadors. Associated with that authority, the

initiative states the General Assembly “may” approve or reject the Governor’s treaties and “may” confirm or reject the ambassador nominations. In statute, the term “may” is permissive while the term “shall” creates a duty. If the proponents intend that the General Assembly is required to approve or reject treaties and confirm or reject ambassador appointments, then the proponents should use the term “shall”.

4. The initiative gives the governor the power to enter and withdraw from treaties, subject to the General Assembly’s approval.
  - a. How do the proponents reconcile this with Article I, Section 10, clause 1 of the U.S. Constitution, which prohibits states from entering treaties?
  - b. How do the proponents reconcile this with Article I, Section 10, clause 3 of the U.S. Constitution, which prohibits states from entering an agreement or compact with a foreign power without congressional consent?
  - c. By what process would the General Assembly “approve or reject” the governor’s entry into, or withdrawal from, a treaty?
5. The initiative gives the governor the power to nominate ambassadors, subject to the General Assembly’s confirmation.
  - a. How do the proponents reconcile this with Article II, Section 2, clause 2 of the U.S. Constitution (the Appointments Clause), which gives the president the exclusive power to nominate ambassadors with the advice and consent of the Senate?
  - b. How do the proponents reconcile this with Article VI, clause 2 of the U.S. Constitution (the Supremacy Clause)?
  - c. By what process would the General Assembly “confirm or reject” the governor’s nomination of ambassadors?
6. The initiative generally gives powers to the Colorado state government to participate in foreign affairs. How do the proponents reconcile this with federal foreign policy and Article VI, clause 2 of the U.S. Constitution (the Supremacy Clause)?

7. Have you considered any fiscal or other impacts that may result from the enactment of the proposed initiative on the state?
8. This initiative was submitted as a part of a group of related initiatives, including proposed initiatives 2025-2026 #287 through #301. What is your intended effect if this initiative 2025-2026 #292 is adopted and all or some of the other initiatives in the group are not adopted?

## **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. The correct format for an amending clause that *adds* a section to an article in the Colorado Constitution is:  

**SECTION 1.** In the constitution of the state of Colorado, **add** section 24 to article IV as follows:
2. In section 1 of proposed initiative #292, the term “sub-ambassador level diplomatic representatives” should be hyphenated as follows:  
“sub-ambassador-level diplomatic representatives.”
3. Standard drafting language for an effective date clause is as follows: "This act takes effect January 14, 2027."