

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: John Mathews and Larry James Blackshear

From: Legislative Council Staff and Office of Legislative Legal Services

Date: March 3, 2026

Subject: Proposed Initiative Measure 2025-2026 #248, Concerning Separation of Pinnacol Assurance from the State to Fund Workforce Development

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 #248 was submitted by the same designated representatives as a part of a pair of related proposed initiatives, including proposed initiative 2025-2026 #249. The comments and questions raised in this memorandum address proposed initiative 2025-2026 #248.

An earlier version of these proposed initiatives, proposed initiative 2025-2026 #218, was submitted by the same designated representatives, was the subject of a memorandum

dated January 23, 2026, and was discussed at a public meeting on January 26, 2026. The comments and questions raised in this memorandum do not include comments and questions that were addressed in the earlier memorandum or at the earlier meeting, except as necessary to fully understand the issues raised by the revised proposed initiative. Prior comments and questions that are not restated in this memorandum continue to be relevant and are considered part of this memorandum.

Purposes

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

1. To convert Pinnacol Assurance from a political subdivision of the state to an independent mutual insurance company;
2. To require Pinnacol Assurance to pay the state a one-time \$150 million payment as part of the conversion;
3. To require Pinnacol Assurance to pay premium taxes as an independent mutual insurance company;
4. To require the commissioner of insurance to facilitate and support Pinnacol Assurance's conversion into an independent mutual insurance company;
5. To require Pinnacol Assurance to reimburse the commissioner of insurance for the direct costs incurred in processing Pinnacol Assurance's conversion from a political subdivision of the state to an independent mutual insurance company;
6. To require Pinnacol Assurance to terminate its affiliation with the public employees' retirement association and to make a payment to the association in connection with its termination of affiliation;
7. To require the commissioner of insurance to develop and oversee the administration of a risk plan to provide workers' compensation insurance coverage to employers that are unable to procure coverage in the voluntary market;
8. To require Pinnacol Assurance to provide such workers' compensation insurance coverage until June 1, 2028;

9. To create a skilled workers and trades fund into which the one-time \$150 million payment from Pinnacol Assurance and the annual premium taxes paid by Pinnacol Assurance are credited; and
10. To create a board to administer the skilled workers and trades fund for the purpose of reimbursing certain education providers for scholarships awarded to Colorado residents seeking job training in an essential job category through a qualifying program.

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. Section 8-45-202 (2) of the proposed ballot initiative provides for payments from Pinnacol Assurance in association with its conversion into an independent mutual insurance company, including a one-time payment of \$150 million and annual payments of premium taxes. Subsection (14) of that section provides that the "payment from Pinnacol Assurance required by subsection (2)(a) of this section shall not be included within the state of Colorado's annual revenue and spending limitations under section 20 of article X of the state constitution."
 - a. What is the constitutional basis for exempting the payment required under subsection (2)(a) from state annual revenue and spending limitations under section 20 of article X of the Colorado Constitution?
 - b. Is it your belief that this money would be exempt from state annual revenue and spending limitations under section 20 of article X of the Colorado Constitution because the payment is subject to voter approval and would then be considered "a voter-approved revenue change" even though the state revenue and spending limitations are not themselves being changed in this ballot initiative?
3. Section 8-45-202 (4)(b)(III) of the proposed ballot initiative states "All direct costs must be reasonable, and in no event may the total direct costs exceed two

hundred fifty thousand dollars.” What is the basis for capping division of insurance costs at \$250,000?

4. Section 8-45-202 (4)(b)(IV) of the proposed ballot initiative states that “If Pinnacol Assurance and the division of insurance are unable to reach agreement on a direct cost, the division of insurance shall afford Pinnacol Assurance an administrative hearing at which the division of insurance bears the burden of proof.”
 - a. Administrative hearings are usually conducted in accordance with the "State Administrative Procedure Act", article 4 of title 24, C.R.S., specifically section 24-4-105. Do you want to reference section 24-4-105 to provide requirements for how the division of insurance shall provide the administrative hearing?
 - b. Because the division of insurance would be financially interested in the outcome of such a hearing, do you want to specify that the commissioner of insurance shall designate an administrative law judge appointed pursuant to part 10 of article 30 of title 24, C.R.S., to conduct the hearing?
 - c. You indicate that the division of insurance bears the burden of proof at the hearing. Do you intend that the standard of proof would be a preponderance of the evidence?
5. Section 8-45-202 (8) of the proposed ballot initiative provides that “A person shall not have any claim against Pinnacol Assurance, its officers or directors, or the state of Colorado arising from this full separation, except that Pinnacol Assurance and the state of Colorado are not precluded from enforcing rights and obligations that arise under this section.”
 - a. Is the intent to allow Pinnacol Assurance and the state of Colorado to enforce the requirements of the proposed ballot initiative against each other? For example, to allow Pinnacol Assurance to enforce the requirement for the commissioner of insurance to facilitate the separation pursuant to 8-45-202 (4)(a) and the division of insurance to enforce the reimbursement requirements of 8-45-202 (4)(b).
 - b. What if there is an assertion by a third party that Pinnacol Assurance, its officers or board of directors, or the state did not comply with the

requirements set forth in the proposed ballot initiative regarding the conversion into an independent mutual insurance company? Do you intend that a claim or cause of action could be filed on that basis?

6. Section 8-45-203 (4) of the proposed ballot initiative states “Any employer satisfying the requirements of subsection (3) of this section and any other qualifications established by the commissioner of insurance shall be provided coverage at a premium level to be determined or approved by the commissioner of insurance....” It is unclear from this requirement who is providing the coverage. Do you want to specify that “the division of insurance or a third party designated pursuant to subsection (5) of this section” shall provide the coverage?
7. In section 8-83-1101 (3) and (4) of the proposed ballot initiative, much of the new declaration language appears to be language intended to have the operation of law and not to be merely declaratory. For example, subsection (3) states “... an independent board is created to oversee and implement the skilled workers and trades fund” and that the board “shall not be subject to the control or direction of any department or agency.” Because it appears from the use of “shall” in that language that the language is intended to have the force of law, you should consider moving the language out of the legislative declaration in section 8-83-1101 and instead placing it in section 8-83-1106 regarding the board. Or, you can make the language better align with declaratory language by changing the use of “shall” to “should.”
8. The definition of “essential job category” in section 8-83-1102 (4) of the proposed ballot initiative states that the board will annually certify the essential job categories. For scholarships received based on training in an essential job category, what, if anything, happens to those scholarships if the board later does not certify the occupation for which the scholarships were received as an “essential job category”?
9. The definition of “qualifying program” in section 8-83-1102 (6) of the proposed ballot initiative states that a qualifying program is not a two- or four-year degree program. Some of the examples of essential job categories listed under the definition of “essential job category” in subsection (4), however, necessarily require a two- or four-year degree program, such as nurses, teachers, and occupations in early childhood education. How should these definitions be reconciled to remove this apparent conflict between them?

10. The following comments address Section 8-83-1103 of the proposed ballot initiative, regarding the skilled workers and trades fund:
 - a. Subsection (1) states "...All money credited to the fund shall remain in trust for the purposes set forth in this part 11." The phrase "remain in trust" could be interpreted to require the fund to be subject to the "Colorado Uniform Trust Code," sections 15-5-101 to 15-5-1404, C.R.S. Is that the intention?
 - b. Subsection (1) states "The money in the fund shall not be transferred to or revert to the general fund of the state of Colorado at the end of any fiscal year." This could be interpreted to mean the money shall not be transferred to the general fund at the end of any fiscal year, but it could be transferred to the general fund at another time. You could better clarify this statement by stating "The money in the fund shall not be transferred to the general fund or revert to the general fund at the end of any fiscal year."
11. Section 8-83-1106 (7) of the proposed ballot initiative provides that "The board shall be subject to annual audit by the state auditor, whose report shall be a public document." Will the board cover the costs of the annual audit by the state auditor?

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 following technical comments pertain to section 8-45-202 of the proposed ballot initiative:
 - a. For clarity, cross-references are written in a standard format. In subsection (2)(a), the reference to subsection "part 11 of article 83 of this title" should read "part 11 of article 83 of this title 8." Please make this same change in subsection (2)(b)(II).
 - b. In subsection (4)(a)(I), the first letter of the word "reissuing" should not be capitalized.

- c. In subsection (4)(a)(II), the first letter of the word “ratifying” should not be capitalized.
- d. In subsection (4)(b)(II):
 - i. Standard drafting language for definitions is “As used in this” Please consider rephrasing “For purposes of this subsection (4)(b)” to “As used in this subsection (4)(b).”
 - ii. In the statement “Direct costs shall not include any overhead or administrative expenses of the division of insurance that exist irrespective of Pinnacol Assurance’s separation from the state of Colorado,” please review the use of the word “shall.” For purposes of this proposed initiative, the word “shall” is defined in section 2-4-401 (13.7), C.R.S., and it means “that a person has a duty.” Because “direct costs” are not a person, you might consider stating “direct costs do not include....” You may also consider this change in sections 8-45-202 (13)(b)(I) and 8-83-1106 (1).
 - iii. In the phrase “including but not limited to employee salaries and benefits, facilities expenses, standard office supplies, and legal services that has been previously allocated to ... the division of insurance,” the word “has” should be changed to “have” so that the subject (salaries, expenses, supplies, services) and verb (have) agree.
- e. It is standard drafting practice for the phrase "except that" to always be preceded by a semicolon. In subsection (8), please consider changing “A person shall not have any claim ... arising from this full separation, except that” to “A person shall not have any claim ... arising from this full separation; except that” Please consider making this same change in subsections (13)(b) introductory portion and (13)(b)(III)(G) and section 8-83-1106 (4)(f).
- f. In subsection (10), the reference to “(13)(b)” might be replaced with “(13)(c),” which is the subsection that requires the payment of PERA's expenses for the actuarial reporting.
- g. Subsection (11) states “This prohibition does not require Pinnacol Assurance to pay premium taxes pursuant section 10-3-209 for policies issued on or before June 30, 2027.” A “to” should be added before

- e. In subsection (6)(e) introductory portion, is the word “or” missing in the introductory portion, which currently reads “Experience establishing the ability to provide statewide”?
- f. In subsection (6)(e)(I), since the word “ability” is in the introductory portion, should the phrase “employer training ability” instead read “employer training”?
- g. Subsection (7)(a) cross-references "subsection (6)." For clarity, and to comply with standard drafting practice, you should add "of this section" after "(6)," so that the cross-reference reads “subsection (6) of this section.”
- h. It is standard drafting practice to write that an agency or official adopts rules, rather than promulgates rules. Please consider making this change in subsection (8). You might also consider adding rules to the headnote for this section, which would read:

8-45-203. Commissioner of insurance to develop risk plan - rules.

- 3. Amending clauses follow a specific format. The amending clause for section 2 of the proposed ballot initiative should read:

SECTION 2. In Colorado Revised Statutes, **add** 8-45-126 as follows:

- 4. In section 8-83-1101 of the proposed ballot initiative, the term “legislative declaration” is used when the information in the declaration sets out the will of the legislature. In this case, the declaration sets out the will of the people, so alternative language, or simply the word “declaration,” should be used.
- 5. The following technical comments pertain to section 8-83-1102 of the proposed ballot initiative:
 - a. In subsection (4), in the definition of “essential job category,” the phrase “that are in-demand” should be changed to “that is in demand,” as it refers back to “‘Essential job category’ means a profession that is essential” If that’s not how the definition is to be read, consider removing the comma after “persons” so that the definition reads:

“Essential job category” means a profession that is essential to the growth and development of the state of Colorado, such as firefighters,

welders, ... people working in emerging technology jobs, and other trades or crafts persons that are in-demand in Colorado's labor market as certified annually by the board.

- b. In subsection (7), consider using "money," instead of "funds," as in statute a "fund" is where "money" is credited, and "fund" is a defined term in part 11 meaning the skilled workers and trades fund.
6. Section 8-83-103 (1) of the proposed ballot initiative states "A fund to be known as the skilled workers and trades fund is hereby created and established in the treasury of the state of Colorado...." For simplicity, and to comply with standard drafting practice, you can shorten this to "The skilled workers and trades fund is created in the state treasury."
 7. The following technical comments pertain to section 8-83-1105 of the proposed ballot initiative:
 - a. Because the structure of this section has changed from the previous ballot initiative, and provisions that follow an introductory portion and are not a complete sentence should end in semicolons, subsections (1)(a) to (1)(f) should end in semicolons.
 - b. Similarly, because subsection (1)(g)(II) is part of the list and does not have two sentences, it should end in a semicolon. Also, because it is the second-to-last item in the list, coming just before the last item of the list, subsection (1)(h), consider adding an "and" or an "or" at the end of subsection (1)(g)(II). However, see Technical Comment 7c below.
 - c. Consider whether subsection (1)(h) should be in the list following the introductory portion or whether it should be its own, separate subsection. Currently, the introductory portion to subsection (1) and subsection (1)(h) read:

(1) The state treasurer shall credit the following to the fund:

(h) The board shall begin disbursing money from the fund as soon as practicable but no later than January 1, 2028.

Because subsection (1)(h) does not appear to be part of the list following the introductory portion, consider making it subsection (2). This would mean adding an "and" at the end of subsection (1)(f).

8. The following technical comments pertain to section 8-83-1106 of the proposed ballot initiative:
 - a. In subsection (1), “this part” should be changed to read “this part 11.” Please make the same change in subsection (4)(f).
 - b. In subsection (4) introductory portion, it appears that a comma is missing after the word “undertake.”
9. In section 8-83-1107, you do not need to number the sole subsection, as there is just one and it is not an introductory portion. You can simply show the section as.

8-83-1107. No substitutions allowed.

THE PEOPLE INTEND THAT

10. The proponents use "State of Colorado" throughout. Consider referring to “the state” or “Colorado” rather than “the State of Colorado” to adhere with standard drafting practices.
11. Proponents use "any" where the singular can be used to encompass the plural according to the drafting practices. Consider changing “any” to “an” in sections 8-45-203 (4), 8-45-202 (4)(a)(III), 8-45-202 (10), and 8-45-203 (1)(b) of the proposed ballot initiative.