

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: Amy Spicer and Landon Mascareñaz

From: Legislative Council Staff and Office of Legislative Legal Services

Date: March 3, 2026

Subject: Proposed Initiative Measures 2025-2026 #246 and 2025-2026 #247,
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 #246** and **#247** 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 #246** and **#247**.

Purposes

Purposes for Proposed Initiative 2025-2026 #246

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 constitutionally prohibit the General Assembly from limiting or preventing the operation, implementation, or administration of statutory measures initiated and approved by the people in accordance with the Colorado Constitution (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 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 prohibit the General Assembly from passing legislation that supersedes or conflicts with initiated statutory measures by constitutionally prioritizing the initiated statutory measure over any current law or any legislation passed prior to the effective date of the initiated statutory measure that would negatively impact the measure.

Purposes for Proposed Initiative 2025-2026 #247

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

1. To constitutionally prohibit the General Assembly from limiting or preventing the operation, implementation, or administration of initiated statutory measures for four years after the initiated statutory measure's effective date; except that the General Assembly may:

- a. Repeal the initiated statutory measure 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
2. To prohibit the General Assembly from passing legislation that supersedes or conflicts with initiated statutory measures by constitutionally prioritizing the initiated statutory measure over any current law or any legislation passed prior to the effective date of the initiated statutory measure that would negatively impact the measure.

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 Colorado Constitution requires the General Assembly to pass a balanced budget every year. Since 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. 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?
4. What does it mean to "further" an initiated statutory measure's "purpose and implementation"?
5. How will it be determined if an amendment furthers the purpose and implementation of an initiated statutory measure? Which individual or entity is responsible for making that determination?
6. If the General Assembly introduces a bill to repeal an initiated statutory measure, presuming it could receive votes from two thirds of the members of each house of

the General Assembly, is it the designated representatives' intent that the bill must repeal the measure entirely, or can a bill repeal a part of the measure?

7. The following questions relate to the proposed initiative's 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 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's 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?

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. Each section in the Colorado Constitution has a headnote. Headnotes briefly describe the content of the section. The headnote for article V, section 1 of the Colorado Constitution is "**Section 1. General assembly - initiative and referendum.**" and should be included on a separate line after the amending clause and before subsection (4)(a).
2. Standard drafting language for internal cross references has been updated. In subsection (4)(a) of proposed initiatives #246 and #247, proponents should consider striking current language: "paragraph (b) of this subsection (4)", and updating it to " SUBSECTION (4)(b) OF THIS SECTION".
3. The phrase "except that" is always preceded by a semicolon. For example, in subsection (4)(a) of proposed initiatives #246 and #247, the new language should

read, "... FOR FOUR YEARS AFTER THE MEASURE'S EFFECTIVE DATE; EXCEPT THAT THE GENERAL ASSEMBLY MAY ...".

4. Standard drafting language typically includes an article before the phrase "two-thirds vote". For example, in subsection (4)(a) of proposed initiatives #246 and #247, proponents should update the phrase, "... BY TWO-THIRDS VOTE ..." to "... BY A TWO-THIRDS VOTE ...".