

# STATE OF COLORADO

## Colorado General Assembly

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## MEMORANDUM

**To:** Joshua Rodriguez and Amy Rodriguez

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

**Date:** August 18, 2025

**Subject:** Proposed initiative measure 2025-2026 #134, concerning universal voting rights for citizens sixteen and older

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Colorado Legislative Council 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 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 Colorado Legislative Council and the Office of Legislative Legal Services is encouraged during review and comment meetings, but comments or discussion from anyone else is not permitted.

# Purposes

## Purposes for Proposed Initiative 2025-2026 #134

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

1. To add a new section to article VII of the Colorado constitution that:
  - a. Guarantees the right to vote as “a fundamental, inherent, and inalienable right of all citizens of the United States who are residents of the State of Colorado”;
  - b. Makes “[e]very citizen of the United States who is a resident of the State of Colorado and has attained the age of sixteen (16) years . . . eligible to register and vote in all state, county, municipal, school district, and special district elections”;
  - c. Prohibits the denial or restriction from voting “based on incarceration, parole, probation, criminal conviction, mental competence, residence status, or unpaid financial obligations”;
  - d. Prohibits any “law, regulation, administrative action, or government policy” that “impose[s] conditions, qualifications, or limitations that impair or delay the exercise of the right to vote”;
  - e. Requires that “[a]ny state action affecting voting rights shall be subject to strict scrutiny, and the burden shall be on the State to prove the measure is the least restrictive means to achieve a compelling governmental interest”;
  - f. Requires the general assembly to “enact all necessary laws to ensure secure, universal access to voter registration, ballots, and election information, including in detention and correctional facilities”; and
  - g. Repeals all “inconsistent provisions of law . . . to the extent of their inconsistency.”

## 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. Article V, section 1 (4)(a) of the Colorado constitution requires that when the majority of voters approve an initiative, the initiative is effective on and after the date of the official declaration of the vote and proclamation of the governor. Because the proposed initiative does not contain an effective date, this would be the default effective date. Does this default effective date satisfy your intent? If not, the designated representatives should include the desired effective date that is not earlier than the default effective date to comply with this constitutional requirement.
3. The following comments and questions relate to the provision concerning “Fundamental Right”, in subsection (1) of the proposed initiative:
  - a. Section 5 of article II of the Colorado constitution , states, “All elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.” According to the Colorado Supreme Court, section 5 guarantees the same fundamental right to vote as is guaranteed by the federal constitution. *Meyer v. Lamm*, 846 P.2d 862, 872 (Colo. 1993). Given this interpretation of section 5 of the constitution, what is the purpose of section (1) of the proposed initiative?
    - i. How is section (1) of the proposed initiative intended to interact with section 5 of article II?
    - ii. Is the right to vote described in subsection (1) of the proposed initiative intended to supplement, clarify, or otherwise be combined with the right to vote guaranteed by section 5 of article II?
    - iii. Is the right to vote described in subsection (1) of the proposed initiative intended to repeal and replace or otherwise limit the right to vote guaranteed by section 5 of article II?

- iv. Is subsection (1) of the proposed initiative intended to guarantee a right to vote that is separate or different from the right to vote guaranteed by section 5 of article II? If so, please explain how the right to vote protected by subsection (1) of the proposed initiative is different from the right to vote guaranteed by section 5 of article II?
  - v. If the proposed initiative is approved, will the right to vote guaranteed by section 5 of article II still exist? If so, what will the right to vote guaranteed by section 5 of article II protect?
- b. How are subsections (1) and (2) of the proposed initiative related? Is the right to vote described in subsection (1) of the proposed initiative limited to “all state, county, municipal, school district, and special district elections” in accordance with subsection (2) of the proposed initiative?
- c. How are subsections (3) to (6) of the proposed initiative intended to relate with subsections (1) and (2) of the proposed initiative?
- i. Do subsections (3) to (6) relate back to the right to vote described in subsection (1) of the proposed initiative?
  - ii. Are subsections (3) to (6) limited in application to “state, county, municipal, school district, and special district elections” in accordance with subsection (2) of the proposed initiative?
- d. The right to vote described in subsection (1) of the proposed initiative is limited to “citizens of the United States who are residents of the State of Colorado.”
- i. What is the meaning of the phrase “citizens of the United States”?
  - ii. What is the meaning of the phrase “residents of the State of Colorado”?
  - iii. If the proposed initiative is approved, how would these limitations be administered and enforced?
    - 1. Would a statute that requires proof of United States citizenship or residence in the state of Colorado to register to vote be unconstitutional pursuant to

subsection (4) of the proposed initiative? If not, please explain.

2. Would such a statute be subject to strict scrutiny pursuant to subsection (5) of the proposed initiative? If not, please explain.

4. The following comments and questions relate to the provisions concerning “Voting Age”, in subsection (2) of the proposed initiative:

- a. Section 1 of article VII of the Colorado constitution states, “Only a citizen of the United States who has attained the age of eighteen years, has resided in this state for such time as may be prescribed by law, and has been duly registered as a voter if required by law shall be qualified to vote at all elections.” How is subsection (2) of the proposed initiative intended to interact with section 1 of article VII?
  - i. Is subsection (2) of the proposed initiative intended to repeal and replace or otherwise change any of the qualifications “to vote at all elections” set forth in section 1 of article VII? In particular, is the proposed initiative intended to repeal the requirement that a person attain the age of eighteen years to be qualified to vote in state, county, municipal, school district, and special district elections?
  - ii. Is subsection (2) of the proposed initiative intended to supersede section 1 of article VII with respect to the qualifications of an elector to vote in a “state, county, municipal, school district, and special district elections”?
  - iii. If the proposed initiative is approved, what elections, if any, would still be governed by section 1 of article VII?
  - iv. Given the direct conflict between section 1 of article VII and subsection (2) of the proposed initiative, consider adding a provision to the proposed initiative showing the language to be deleted from or amended in section 1 of article VII if the measure is approved.
- b. Section 1 of article VII includes the qualification that a person “have resided in this state for such time as may be prescribed by law”. Subsection (2) of the proposed initiative states that a person must be

“a resident of the State of Colorado”. How are these qualifications different?

- i. How would a person be determined to be a resident of the state for purposes of section (2) of the proposed initiative?
  - ii. Would a statute that requires proof of residence in the state of Colorado for a certain period of time prior to registering to vote be unconstitutional pursuant to subsection (4) of the proposed initiative? If not, please explain.
  - iii. Would such a statute be subject to strict scrutiny pursuant to subsection (5) of the proposed initiative? If not, please explain.
- c. Section 1 of article VII includes the qualification that a person “has been duly registered as a voter if required by law”. Subsection (2) of the proposed initiative states that a citizen and state resident who is 16 “shall be eligible to register and vote . . .”. Eligibility to register to vote in a state election or local election may be limited by law. For instance, a person is only eligible to vote in a special district election if the person lives in the special district and receives the services or is subject to the tax to be voted on. Would the state or a local government be allowed to limit eligibility to register to vote in an election in this manner under the proposed initiative?
  - i. Would a new law limiting eligibility in this manner be an impermissible limitation that impairs or delays the exercise of the right to vote under subsection (4) of the proposed initiative?
  - ii. Would such a law be subject to strict scrutiny if challenged in court pursuant to subsection (5) of the proposed initiative?
- d. If the proposed initiative is approved, how will the qualification that a person have “attained the age of sixteen (16) years” be verified?
- e. Would a law requiring a person to obtain a driver’s license or state identification card to verify their age be an impermissible limitation that impairs or delays the exercise of the right to vote under subsection (4) of the proposed initiative?
- f. Is the limitation stated in subsection (2) of the proposed initiative, regarding voting in only “state, county, municipal, school district, and special elections”, intended to apply to the applicability or scope of any

other subsection of the proposed initiative? For example, is the right to vote in a federal election intended to be protected by the “Non-Disenfranchisement” provision in subsection (3) or the “Prohibition on Infringement” in subsection (4)?

- g. If the proposed initiative is approved, have the designated representatives considered how the state will conduct general elections involving both federal and state offices?

5. The following comments and questions relate to the provisions concerning “Non-Disenfranchisement”, in subsection (3) of the proposed initiative:

- a. Section 10 of article VII of the Colorado constitution provides, “No person while confined in any public prison shall be entitled to vote, but every such person who was a qualified elector prior to such imprisonment, and who is released therefrom by virtue of pardon, or by virtue of having served out his full term of imprisonment, shall without further action, be invested with all the rights of citizenship, except as otherwise provided in this constitution.” How is subsection (3) of the proposed initiative intended to interact with section 10 of article VII?

- i. Is subsection (3) of the proposed initiative intended to effectively repeal section 10 of article VII as an inconsistent provision of law in accordance with subsection (7) of the proposed initiative?
- ii. Is section 10 of article VII entirely inconsistent with subsection (3) of the proposed initiative or would it be repealed only “to the extent of [its] inconsistency” with subsection (3)?
- iii. What legal effect, if any, would section 10 of article VII have if the initiative is approved?
- iv. Given the direct conflict between section 10 of article VII and subsection (3) of the proposed initiative, consider adding a provision to the proposed initiative showing the language to be deleted from or amended in section 10 of article VII, or showing that the entire section will be repealed if the measure is approved.

- b. What does “citizen” mean for purposes of subsection (3) of the proposed initiative? How does the requirement that a person be a

“citizen” interact with the prohibition on the denial or restriction from voting based on “residence status”?

- i. Must the citizen be a resident of the state of Colorado as stated in subsections (1) and (2) of the proposed initiative?
    - ii. What does the phrase “residence status” mean?
  - c. Concerning citizens who are incarcerated, on parole or probation, or who have a criminal conviction, if the proposed initiative is approved:
    - i. How will it be implemented with respect to people who are currently incarcerated?
    - ii. How will it be implemented with respect to people who have been permanently disfranchised pursuant to state law?
    - iii. How will it affect or be implemented with respect to people who have been permanently disfranchised pursuant to federal law?
  - d. What does “mental competence” mean for purposes of proposed subsection (3) of the proposed initiative?
  - e. What does “unpaid financial obligations” mean for purposes of proposed subsection (3) of the proposed initiative?
6. The following comments and questions relate to the provisions concerning “Prohibition of Infringement”, in subsection (4) of the proposed initiative:
- a. Section 5 of article VII of the Colorado constitution states, “All elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.” How is the prohibition in proposed subsection (4) of the proposed initiative different from the requirement that “all elections shall be free and open” or the limitation that “no power . . . shall at any time interfere to prevent the free exercise of the right of suffrage”?
  - b. Section 1 of article VII of the Colorado constitution states, “Only a citizen of the United States who has attained the age of eighteen years, has resided in this state for such time as may be prescribed by law, and has been duly registered as a voter if required by law shall be qualified to vote at all elections.” In accordance with this constitutional provision, the general assembly has enacted laws concerning the amount of time a person must reside in this state prior to voting in an election. The



general assembly has also enacted statewide voter registration requirements and processes.

- i. How is subsection (4) of the proposed initiative intended to interact with the language in section 1 of article VII contemplating statutory residency and registration requirements?
  - ii. Are any residency or voter registration requirements permissible under subsection (4)? If so, on what basis would they be found not to “impair or delay the exercise of the right to vote”?
- c. Section 11 of article VII of the Colorado constitution mandates that the general assembly “pass laws to secure the purity of elections, and guard against abuses of the elective franchise.” Accordingly, there are many statutes and related regulations that impose certain conditions, qualifications, and limitations on the exercise of the right to vote to, among other things, ensure the validity of voter registrations, ballots cast, and election results. How is subsection (4) of the proposed initiative intended to interact with section 11 of article VII?
- i. Is subsection (4) intended to repeal or otherwise limit the general assembly’s authority to enact laws pursuant to section 11 of article VII?
  - ii. How can the general assembly fulfill its duty under section 11 of article VII without violating subsection (4) of the proposed initiative?
  - iii. Would the types of statutes and regulations described above be permissible under subsection (4) of the proposed initiative?
  - iv. How would the general assembly know whether a proposed law imposes a permissible or impermissible condition, qualification, or limitation under subsection (4) of the proposed initiative?
  - v. What does “impair” mean”?
  - vi. What does “delay” mean?
  - vii. Does the nature of the impairment or delay matter for purposes of finding a violation of subsection (4) of the proposed initiative? For example, does it matter whether the impairment or delay is

reasonable or unreasonable? Does it matter whether the impairment or delay is nondiscriminatory or discriminatory?

7. The following comments and questions relate to the provision concerning “Strict Scrutiny”, in subsection (5) of the proposed initiative:

- a. What is the intended legal effect of subsection (5) of the proposed initiative?
  - i. Is the language in subsection (5) of the proposed initiative intended to reference the strict scrutiny standard, which the Colorado Supreme Court has described as “the most exacting standard of review under the Equal Protection Clause . . . reserved for statutes or state constitutional amendments that discriminate against members of traditionally suspect classes . . . or infringe on any fundamental constitutional right.” *Evans v. Romer*, 854 P.2d 1270, 1275 (Colo. 1993)?
  - ii. According to the Colorado Court of Appeals, “if the regulation actually limits or hinders the ability of a person to exercise a fundamental right, then such provision will be strictly scrutinized. However, if a state election law imposes reasonable, nondiscriminatory restrictions upon the rights of voters, the state’s important regulatory interests generally are sufficient to justify the restrictions.” *Bruce v. City of Colorado Springs*, 971 P.2d 679, 683-684 (1998). Is the intent of subsection (5) of the proposed initiative to overrule this legal precedent and require that all state election laws, even laws that impose reasonable, nondiscriminatory restrictions upon the rights of voters, be reviewed under the strict scrutiny standard if challenged in a state court?
  - iii. What is the purpose of requiring a court to review “any state action affecting voting rights” as if the state action were a denial of the fundamental right to vote?
- b. What does “state action” mean?
- c. Would any of the following be “state action” for purposes of subsection (5) of the proposed initiative:
  - i. The passage of a resolution related to a county election by the governing board of a county?

- ii. The passage of a municipal ordinance related to a municipal election by the governing board of a municipality?
    - iii. A decision of a governing board of a school district related to the conduct of a school district election?
    - iv. A decision of the governing board of a special district related to the conduct of a special district election?
  - d. Section 11 of article VII of the Colorado constitution mandates that the general assembly “pass laws to secure the purity of elections, and guard against abuses of the elective franchise.” Would a law passed by the general assembly to fulfill this constitutional duty be “state action affecting voting rights” for purposes of subsection (5) of the proposed initiative and thus subject to strict scrutiny?
8. The following comments and questions relate to the provision concerning “Implementation”, in subsection (6) of the proposed initiative:
- a. If the proposed initiative is approved, would the general assembly be required to enact laws controlling and specifying access to county, municipal, school district, and special district voter registration, ballots, and election information, including in detention and correctional facilities?
  - b. How will the general assembly enact laws to administer and enforce the qualifications for citizenship, state residency, or age in subsection (2) of the proposed initiative without violating subsection (4) of the proposed initiative?
  - c. Will every law enacted by the general assembly pursuant to subsection (6) of the proposed initiative, if challenged in court, be subject to strict scrutiny pursuant to subsection (5) of the proposed initiative? If not, please explain why not.
9. Subsection (7) of the proposed initiative specifies that “all inconsistent provisions of law are hereby repealed to the extent of their inconsistency”. Given the direct conflict between multiple current provisions of the Colorado constitution and multiple provisions of the proposed initiative, consider adding provisions to the proposed initiative to specify the provisions that will be deleted from or amended in the Colorado constitution if the measure is approved by the voters.

10. Have the designated representatives considered how to ensure fair and uniform implementation of the proposed initiative by all counties, municipalities, school districts, and special districts in conducting their elections?
11. Have the designated representatives considered the administrative resources and costs to the state, counties, municipalities, school districts, and special districts required to implement the proposed initiative?

## 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 hearing only if the designated representatives so request. You will have the opportunity to ask questions about these comments at the review and comment hearing. Please consider revising the proposed initiative as follows:

1. Article V, section 1 (8) of the Colorado constitution requires that the following enacting clause be the style for all laws adopted by the initiative: "Be it Enacted by the People of the State of Colorado". Regarding the placement of the enacting clause in the proposed initiative, is the phrase "Short Title: Universal Voting Rights for Citizens Sixteen and Older" intended to be included as part of the proposed initiative? If so, the phrase must appear below the enacting clause and may require a section number as explained in comment 2 below.
2. Before the amending clause, number each section, part, etc. that is being amended or added with a section number (e.g., SECTION 1., SECTION 2.). For example:

**SECTION 1.** In the constitution of the state of Colorado, **add** article XXX as follows:

If the short title language included in the proposed initiative is not intended to be added to the constitution, then it must be preceded by "**SECTION 1. Short title.**" If the short title language included in the proposed initiative is intended to be added to the constitution, then it should be inserted below the existing Section 1 and that section should be renumbered accordingly.

3. Each constitutional and statutory section being amended, repealed, or added is preceded by a separate amending clause explaining how the law is being changed. For example, "In the constitution of the state of Colorado, **add** section \_\_ to article X as follows:"

Article VII of the Colorado constitution currently contains sections 1 to 12. Accordingly, the amending clause in the proposed initiative should be revised to read as follows: "In the constitution of the state of Colorado, **add** section 13 to article VII as follows:" The reference to "Section X" preceding the headnote in the proposed initiative should be replaced by "Section 13".

4. Each section in the Colorado constitution has a descriptive headnote. In the Colorado constitution, the headnote may contain multiple descriptive words or phrases separated by a hyphen. A subsection within a section in the Colorado constitution typically does not have a separate headnote. Headnotes must appear in bold face type. Only the first letter of the first word in a headnote is capitalized.

The headnote for the new section to be added to the Colorado constitution should be revised as follows: "**Section 13. Absolute right to vote - citizens - sixteen and older.**" Also, consider whether the text of the headnote provides the public with clear and comprehensive notice of the content of the section.

If you choose to keep the headnotes for sections (1) to (7) of the new section 13, the headnotes should be revised to appear in bold face type and to correct the capitalization of the first word only.

5. It is standard drafting practice to use small capital letters [rather than ALL CAPS] to show the language being added to and stricken type, which appears as stricken type, to show language being removed from the Colorado constitution.

All text other than the enacting clause, amending clause, and headnotes in the proposed initiative should be in small caps rather than regular type; except that the short title should appear in regular type as discussed in comment 1 above.

6. Although the text of the proposed initiative should be in small capital letters, use an uppercase letter to indicate capitalization where appropriate. The following should be large-capitalized:

- a. The first letter of the first word of each sentence;
- b. The first letter of the first word of each entry of an enumeration paragraphed after a colon; and
- c. The first letter of proper names.

Only the first letter of the first word of the headnote in the proposed initiative should be capitalized. The word “State” in subsections (1), (2), and (5) should not be capitalized. The words “General Assembly” should not be capitalized in subsection (6).

- 7. The parenthetical number “(16)” in subsection (2) of the proposed initiative should be deleted.