

# STATE OF COLORADO

## Colorado General Assembly

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## MEMORANDUM

**To:** Jessica Presso and Cameron Porter

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

**Date:** April 30, 2025

**Subject:** Proposed initiative measure 2025-2026 #82, concerning the establishment of a wildlife and ecosystem conservation commission

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**

The major purposes of the proposed initiative appear to be:

1. To establish a wildlife and ecosystem conservation commission (commission), including specifying the membership of the commission;
2. To authorize the commission to exercise certain powers, including designating state-specific endangered species and "keystone species," establishing a statewide network of wildlife corridors, approving or disapproving public and private infrastructure projects and land use practices, imposing and collecting fines and fees, seeking and expending grants from public and private sources, and adopting rules;
3. To establish property tax reductions to incentivize landowners to designate property for participation in the statewide network of wildlife corridors;
4. To enact new requirements and prohibitions for public and private infrastructure projects and land use practices in order to protect wildlife; and
5. To establish revenue sources to fund the activities of the commission.

## **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 each of the proposed initiatives?
2. 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." To comply with this constitutional requirement, this phrase must be added to the beginning of the proposed initiative, immediately above the text of the initiative.
3. Under article V, section 1 (2) of the Colorado Constitution, proposed initiatives amend either the Colorado Constitution or state law (i.e., the Colorado Revised Statutes). The proposed initiative does not indicate by its own language whether the initiative is intended to be added to the Colorado Revised Statutes or to the

Colorado Constitution. To indicate the intended placement of the proposed language, the proponents must include an amending clause. For example, if the proponents intend for their language to be placed as a new article 8.5 in title 33 of the Colorado Revised Statutes, they may use an amending clause such as the following:

**SECTION 1.** In Colorado Revised Statutes, **add** article 8.5 of title 33 as follows:

Conversely, if the proponents intend for their language to be placed within the state constitution, they may use an amending clause such as the following:

**SECTION 1.** In the constitution of the state of Colorado, **add** section 17 to article XVIII as follows:

In this memo, to the extent necessary, we have presumed that the proponents intend for the initiative to be a statutory measure.

4. The text of the proposed initiative repeatedly describes the new commission as an "independent" entity. However, it is not clear what the proponents mean by the word "independent," because the proposed initiative also appears to create the commission as an entity of state government, with statutory powers and duties.
5. Article IV, section 22 of the Colorado Constitution provides that "[a]ll executive and administrative offices, agencies, and instrumentalities of the executive department of state government and their respective functions, powers, and duties, except for the office of governor and lieutenant governor, shall be allocated by law among and within not more than twenty departments." I.e., the state constitution does not allow for the creation of new executive agencies that exist "independently" of the existing departmental structure. To comply with this constitutional requirement, the proponents should indicate where, exactly, within the Colorado state government the commission is to be created. For example, the proponents may consider creating the commission within the Colorado department of natural resources, which is where the Colorado division of parks and wildlife (CPW) is created.
6. The second section of the proposed initiative indicates its "Purpose." When the general assembly elects to include statutory or nonstatutory language in legislation to indicate the general assembly's intent in enacting the legislation, it does so in the form of a "legislative declaration." Typically, a legislative declaration

first states a number of findings ("The general assembly finds that: . . .") and then concludes with one or more declarations ("Therefore, the general assembly declares that . . ."). The proponents may consider rephrasing the "Purpose" language of the proposed initiative to conform to this standard drafting practice, as follows:

**33-8.5-102. Legislative declaration.** (1) THE PEOPLE OF THE STATE OF COLORADO FIND THAT:

(a) . . .; AND

(b) . . . .

(2) THEREFORE, THE PEOPLE OF THE STATE OF COLORADO DECLARE THAT . . .

7. Regarding the definition of "WECC" in section 3:

- a. Standard drafting practice would be to:
  - i. Define the wildlife and ecosystem conservation commission as the "commission" rather than use the acronym "WECC"; and
  - ii. Use the word "and" rather than an ampersand (&).
- b. The definition describes the commission as "nonpartisan"; however, in section 4, where the membership of the commission is described, there is no language requiring the members of the commission themselves to be "nonpartisan." Do the proponents intend to prohibit individuals who are registered as Democrats or Republicans from serving on the commission?
- c. Standard drafting practice in creating a definition for a new commission is to cite the statutory location where the commission is created. The proponents may wish to strike "established pursuant to this Act" and substitute "created in section 33-8.5-10[x]".
- d. The language "with authority to advise, enforce, and assume wildlife governance functions if state agencies are incapacitated" is operational language indicating the rights and responsibilities of the commission and therefore should be placed outside of the definitions section. It appears that this language is also essentially redundant with language that appears

elsewhere in the initiative, so the proponents may consider simply striking it.

8. In the definition of “endangered species” in section 3:

- a. The first clause of the second sentence of the definition states "This designation shall not conflict with or override listings under the federal Endangered Species Act (ESA)."

Standard drafting practice is to avoid placing operational provisions (that is, provisions that impose requirements, restrictions, or prohibitions on a person or indicate a person's rights) within a dedicated definitions section. Also, standard drafting practice is to use the word "shall" only where an actual duty or prohibition is imposed on an entity. Therefore, the proponents may consider relocating this clause to appear outside of the definitions section, with amendments, perhaps as follows:

(X) THE COMMISSION SHALL NOT DESIGNATE A SPECIES AS AN ENDANGERED SPECIES UNLESS THE CLASSIFICATION IS CONSISTENT WITH [?] THE FEDERAL "ENDANGERED SPECIES ACT OF 1973", 16 U.S.C. SEC. 1531 ET SEQ.

- b. The second clause of the second sentence of the definition states "[This designation . . .] shall apply exclusively to state-level protective measures." This clause is unnecessary and may be omitted because the first sentence of the definition already states that the definition applies only to "species . . . within the State of Colorado".

9. In the definition of “keystone species,” the term "CPW" appears. Standard drafting practice is to refer to CPW as "the division of parks and wildlife." Alternatively, the proponents may consider defining the division of parks and wildlife as the “division” and using this term consistently in the proposed initiative. Should the proponents decide to place the language of the proposed initiative in title 33, C.R.S., “division” is already defined for the title in section 33-1-102, C.R.S., and references to “CPW” can be changed to “division” without having to add a new definition.

10. The definition of “keystone species” also indicates that the commission must consult with “Indigenous representatives.” In statute, there are more specific references to “representatives of the Ute Mountain Ute Tribe and the Southern Ute Indian Tribe” to refer to the two official tribes in the state. The proponents

might consider requiring the commission to consult with representatives of the two tribes.

11. In section 4, it is not clear what the word "independent" means in the introductory portion of subsection (1) and in subsection (1)(a)(i). What do the proponents mean by "independent"?
12. In section 4, the appointing entities are generally described but not specified. So it is unclear which entities, exactly, would be authorized to appoint members to the commission. For a statutorily created agency, such as the commission, the appointing agency is typically an elected official (e.g., the governor) or an individual who is appointed by an elected official (e.g., the executive director of a state department). The proponents should consider revising the appointment language to name one or more specific appointing entities.

The proponents should also add language specifying the length of each member's term of service on the commission and whether there is any limit on the number of terms a member may serve.

13. In section 4, subsection 2 describes the commission as an "advisory and enforcement body"; however, it is not clear to which entity or entities the commission is required to "advise."
14. In section 4, subsection (2)(b) states the following:

"In the event that CPW or another relevant agency is legally disbanded, defunded, or judicially determined to be nonfunctional, the WECC shall assume all statutory wildlife conservation functions previously assigned to such agency until a lawful successor is designated."

Which government agencies in Colorado do the proponents consider to be "relevant" agencies for the purposes of this provision? Alternatively, what characteristics does a government agency need to have in order to be considered "relevant" for the purposes of this provision?

Does this provision apply only to "relevant agencies" of the state government? Or can a local government agency also be a "relevant agency"?

15. In section 4, subsection (2)(c) authorizes the commission to take certain actions, including:

- a. "[Designating] state-listed endangered species." Do the proponents intend to authorize the commission to designate a species as endangered in Colorado regardless of whether the species is designated as endangered by federal law?
  - b. "[Conducting] independent ecological impact assessments." What do the proponents mean by the word "independent"?
  - c. "[Requiring] mitigation for any project determined to harm endangered species or wildlife corridors." What do the proponents mean by the word "mitigation"? Also, what do the proponents intend to include as a "project"? Finally, who "determine[s]" whether a project harms endangered species or wildlife corridors?
  - d. "[Developing] voluntary conservation programs for private landowners and businesses." What sort of programs do the proponents intend for the commission to create? For example, does "program" include grant programs? If so, do the proponents intend for such grant programs to be funded by the state or local governments?
  - e. "[Issuing] investigative subpoenas, [inspecting] ecological sites, and [referring] cases for prosecution." Do the proponents intend to require the commission to satisfy an evidentiary standard to the satisfaction of a court before issuing a subpoena, or do the proponents intend to authorize the commission to issue subpoenas unilaterally, at the commission's discretion? What criteria must a site satisfy in order to be considered an "ecological site" for purposes of this provision? To whom do the proponents intend for the commission to refer cases for prosecution? To the attorney general, to a district attorney with jurisdiction, or to both?
16. Section 5 requires the commission to establish a Colorado wildlife corridor network and authorizes tax incentives, including property tax reductions up to 100%, for private landowners that designate 30% to 100% of their land for participation in the network. However, article X, section 6 of the state constitution provides in part that "All laws exempting from taxation property other than that specified in this article [X] shall be void."

This constitutional provision appears to prohibit the enactment of some of the property tax incentives described in the proposed initiative. Therefore, the proponents should consider how to address this provision—particularly in

determining whether to redraft the proposed initiative as a statutory measure or a constitutional measure.

17. In section 5, subsection (3) is entitled "Definition of Protection for Eligibility" and provides a definition of the word "protection" for "the purposes of this section."

Do the proponents intend for this definition to apply to the text of the entire initiative or only to the text of subsection (3) within section 5?

- a. Subsection (3) includes eight roman-numbered subparagraphs, each of which describes an operational prohibition or requirement. Standard drafting practice is to place operational provisions such as these outside of the definitions section.
  - b. Four of the eight roman-numbered subparagraphs do not mention the new commission; how do these provisions fit within the single subject of the proposed initiative?
18. In section 5, subsection (4) describes "Infrastructure Project Requirements." Subsection (4)(a) requires "[a]ll new public or private infrastructure projects . . . [to] be designed to accommodate safe wildlife movement through use of" certain described measures, but it doesn't mention the new commission and how the commission may be involved.
- Additionally, the proponents may consider providing a definition of the broad term "public or private infrastructure projects" to clarify which, if any, types of infrastructure projects are not included in this term.
19. Section 6 requires the commission to "identify keystone species" and states that "[a]ny party whose operations may harm a keystone species must submit a mitigation strategy based on peer-reviewed science."
- a. Who determines whether a party's operations "may harm a keystone species," and how is this to be determined?
  - b. To whom must the mitigation strategy be submitted? To the commission? What happens after such a submission? What is the timeline for review and approval of a submission?
20. Section (6) provides that "[r]eintroduction programs shall be reviewed and approved directly by the WECC" and goes on to describe the membership of the



commission. However, the membership of the commission is already described in section 4. Also, this is the only instance of the term "reintroduction program" in the proposed initiative, so it is not clear what this term is intended to mean.

21. Section 7 describes penalties for a person that "knowingly and willfully kills, injures, or otherwise causes material harm to a designated endangered or keystone species" or harms a "designated wildlife corridor."
  - a. The proposed penalties appear to conflict with existing law. Specifically, section 18-9-202, C.R.S., establishes criminal penalties for cruelty and aggravated cruelty to animals. The proponents should consider how to reconcile their proposed criminal penalties with those provided in existing law.
  - b. Subsection (1)(b)(ii) mentions "WECC enforcement staff," and subsection (2)(a) authorizes the commission to "conduct investigations, issue subpoenas, and perform site inspections." How many staff members, including administrative staff and enforcement staff, do the proponents believe will be necessary to support the activities of the commission?
  - c. Subsection (4) regarding corporate accountability provides that an entity that knowingly causes ecological destruction may be "permanently barred from operating in protected zones." This is the only reference in the proposed initiative to the term "protected zone." What is a "protected zone?"
22. Section 8 creates a new "conservation and biodiversity protection fund" and describes the allocation of money in the fund to certain purposes.
  - a. The proponents should state that the new cash fund is created in the state treasury.
  - b. What, exactly, are the "annual audit and legislative reporting requirements" associated with the new fund referenced in subsection (1)(a) introductory portion?
  - c. Subsection (1)(a)(i) states that "20% of all collected fines will fund WECC operations," and then the next three subparagraphs describe similar allocations for funding other activities. This is confusing because these other activities also appear to be commission operations. Additionally, subsection (1)(a)(i) says that a percentage of "all collected fines" will fund

operations, while subsection (1)(a)(ii) uses the phrase “of fines.” Subsections (1)(a)(iii) and (1)(a)(iv) do not include either phrase. Proponents should make the language consistent and clarify these allocations.

- d. Typically, money collected as fines is credited to the general fund rather than to a cash fund in order to avoid the appearance of a specific agency having an incentive to issue fines. The proponents may consider crediting money raised as fines to the general fund rather than to the new cash fund.
- e. In the introductory portion of subsection (2)(a), the word "satisfy" should be inserted before the word "either."
- f. Subsection (2)(d) authorizes the commission to "adopt implementing guidelines." Part 1 of article 4 of title 24, C.R.S., imposes certain requirements for state agencies to satisfy in adopting rules, including notice and hearing requirements. The proponents should consider including language requiring the commission to satisfy the requirements of part 1 of article 4 of title 24, C.R.S.

23. Subsection (3) of section 8 describes "Carbon Credit Revenue for Corridor Conservation."

- a. Which "carbon credit trading programs," "reforestation offset sales," and "verified emissions reduction schemes" are referred to in subsection (3)(a)?
- b. Subsection (3)(c) states that "This allocation shall be subject to General Assembly appropriation or voter approval in compliance with Article X, Section 20 of the Colorado Constitution (TABOR)." It is unclear why the proponents believe that the allocation of existing state revenues described in this portion of the proposed initiative requires voter approval pursuant to TABOR. Also, this text purports to be a ballot initiative itself, so it is unclear why the proponents have included this language.
- c. Subsection (3)(d) requires the commission to "report annually on the use and outcomes of carbon credit-related funds." To whom is the commission required to report this information? Should it be published in the annual report required by section 9? Does this refer to the “legislative” reporting requirements noted in substantive question #26 (b)?

24. Subsection (4) of section 8:

- a. Describes "External Conservation Grants" and authorizes the commission to "apply for, receive, and expend funds" received as grants. Standard drafting practice is to state that an entity "may seek, accept, and expend gifts, grants, and donations from private or public sources" for the purposes of the new article/part/section.
  - b. References the "land and water conservation fund." This fund does not already exist in the Colorado Revised Statutes. Is it referring to a federal fund?
- 25. Subsection (5) of section 8 describes "TABOR Compliance and Initial Appropriation."
  - a. Subsection (5)(a) states that the commission "shall receive a one-time, voter-approved allocation" of \$2,500,000 from the general fund. When is this appropriation supposed to occur?
  - b. Subsection (5)(a) states that "No new taxes or revenue increases shall be imposed by this Act without voter approval, in full compliance with the Taxpayer's Bill of Rights (TABOR)." However, this text purports to be a ballot initiative itself (i.e., subject to voter approval), so it is unclear why the proponents have included this language.
  - c. Subsection (5)(c) states that "All ongoing funding mechanisms established under this section are designed to be fee-based, grant-based, or voluntary, and shall not require additional general fund appropriations absent a future vote." However, subsection (1) of section 8 describes the allocation of collected fines, which are not "fee-based, grant-based, or voluntary."
- 26. Subsection (6) of section 8 describes "Revenue Shortfall Contingency." Subsection (6)(a) states "If total revenue from impact fees, fines, carbon credits, and grants falls below seventy-five percent (75%) of WECC's operational budget for two consecutive fiscal years, the Commission may submit a request for a one-time supplemental appropriation to the Colorado General Assembly, subject to voter approval." What is the commission's "operational budget"? What is 75% of this sum?
- 27. Section 10 states that the proposed initiative "shall be construed to the maximum extent permissible under the Colorado and United States Constitutions." This

sentence appears to be missing some text. The proponents may consider clarifying.

28. Section 11 provides a severability clause. The Colorado Revised Statutes includes a severability clause of general applicability at section 2-4-204, C.R.S., which reads as follows:

**2-4-204. Severability of statutory provisions.** If any provision of a statute is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions of the statute are valid, unless it appears to the court that the valid provisions of the statute are so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed the legislature would have enacted the valid provisions without the void one; or unless the court determines that the valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

So, if the proposed initiative is a statutory measure, the proponents may consider omitting their severability clause as redundant with section 2-4-204, C.R.S.

29. Section 12 states that the initiative takes effect "immediately upon passage by the voters of Colorado." In fact, a proposed initiative that is adopted by the voters of the state takes effect upon the governor's declaration of the certification of such outcome. The proponents may consider substituting language to this effect, such as "This act takes effect on the date of the official declaration of the vote thereon by proclamation of the governor."

## 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. As noted in substantive comment #3, the proposed initiative is missing an amending clause. Once the proponents have decided whether to amend the Colorado Revised Statutes or the Colorado Constitution and have written the amending clause, the next step is to number each section within the new article

of section so that it fits within the article or section. Each section should have a headnote that briefly describes the content of the section.

If the proponents add a new article 8.5 to title 33, C.R.S., a sample structure is provided below. Note that each section has a section number and a headnote in bold. Only the first word of a headnote is capitalized.

**SECTION 1.** In Colorado Revised Statutes, **add** article 8.5 of title 33 as follows:

## **ARTICLE 8.5**

### **Colorado Wildlife and Biodiversity Protection Act**

**33-8.5-101. Short title.** THIS ACT SHALL BE KNOWN ...

**33-8.5-102. Purpose.** (1) THE PEOPLE OF COLORADO RECOGNIZE THAT:

(a) WILDLIFE CORRIDORS ARE ...

...

(c) CURRENT ENDANGERED SPECIES LISTINGS ARE ...; AND

(d) AN INDEPENDENT ... .

(2) ACCORDINGLY, THE PURPOSES OF THIS [ARTICLE / SECTION] ARE TO:

...

**33-8.5-103. Definitions.** AS USED IN THIS [ARTICLE / SECTION], UNLESS THE CONTEXT ...:

(1) "CONNECTIVITY" MEANS ...

(2) "ENDANGERED SPECIES" MEANS ...

(3) "HABITAT DEGRADATION" MEANS ...

(4) "KEYSTONE SPECIES" MEANS ...

(5) "MITIGATION" MEANS ...

(6) "WILDLIFE AND ECOSYSTEM CONSERVATION COMMISSION" OR "WECC" MEANS ...

(7) "WILDLIFE CORRIDOR" MEANS ...

**33-8.5-104. Wildlife and ecosystem conservation commission - creation - membership - powers and duties. ...**

**33-8.5-105. Colorado wildlife corridor network - established - voluntary participation and incentives - infrastructure requirements - definition. ...**

(2) **Voluntary participation and incentives.** (a) ANY PRIVATE LANDOWNER WHO VOLUNTARILY DESIGNATES AT LEAST THIRTY PERCENT OF THEIR PROPERTY ... SHALL BE ELIGIBLE FOR ONE OR MORE OF THE FOLLOWING INCENTIVES:

(I) A PROPERTY TAX REDUCTION AS FOLLOWS:

(A) FOR THIRTY PERCENT TO FORTY-NINE PERCENT OF LAND DESIGNATED, A TWENTY-FIVE PERCENT PROPERTY TAX REDUCTION; AND

(B) FOR FIFTY PERCENT TO ONE HUNDRED PERCENT OF LAND DESIGNATED, A FIFTY PERCENT PROPERTY TAX REDUCTION;

**33-8.5-108. Funding and revenue sources - self-sustaining funding model - impact fees - carbon credit revenue - external conservation grants - TABOR compliance - revenue shortfall contingency.** (1) ALL MONETARY PENALTIES, FINES, AND IMPACT FEES COLLECTED UNDER THE AUTHORITY OF THIS ARTICLE 8.5 SHALL BE ALLOCATED AS FOLLOWS:

(1) **Self-sustaining funding model.** ALL FUNDS SHALL BE DEPOSITED IN A DEDICATED CONSERVATION AND BIODIVERSITY PROTECTION FUND, ADMINISTERED BY THE WECC, WITH ANNUAL ... REQUIREMENTS. FINES COLLECTED UNDER THIS ARTICLE 8.5 SHALL BE ALLOCATED AS FOLLOWS:

(a) TWENTY PERCENT OF ALL ...;

...

(c) THIRTY PERCENT OF ALL; AND

(d) TWENTY PERCENT ... .

2. It is standard drafting practice to use SMALL CAPITAL LETTERS to show new language being added to the Colorado Revised Statutes or Colorado Constitution. The headnote should remain in lowercase letters. To find small capital letters in

Microsoft Word, go to the Home tab, click the arrow in the bottom right corner of the Font group, and in the Font dialog box, check the Small Caps checkbox under “Effects.

3. Should the proponents choose to add the language of the proposed initiative as a new article, consider adding an article heading. Other article headings in title 33, C.R.S., include "Administration of Parks and Wildlife" (article 9 of title 33, C.R.S.), "Snowmobiles" (article 14 of title 33, C.R.S.), and Colorado Natural Areas (article 33 of title 33, C.R.S.). A sample article heading has been added in technical comment #1.
4. The “title” (or “short title” as it’s referred to in the Colorado Revised Statutes) of the proposed initiative states "This Act shall be known as the "Colorado Wildlife & Biodiversity Protection Act." To conform to standard drafting practice for creating new statutory articles, the proponents may consider revising this language to read “The short title of this article 8.5 is the “Colorado Wildlife and Biodiversity Protection Act.” Additionally, the short title is the first section of a newly created article. See section 33-8.5-101 in technical comment #1 above.
5. Definitions sections should be in alphabetical order so that readers can find each definition more easily. See section 33-8.5-103 in technical comment #1 above, where the definitions have been re-ordered in alphabetical order.
6. **Formatting and structure.** Please make or considering making following changes:
  - a. Drafters use subsections, paragraphs, subparagraphs, and sub-subparagraphs to organize the statutes. Though every provision does not need to be broken down into sub-subparagraphs, use one of the following general structures for each provision.

(1) (a) (I) (A) (B) (II) (b)

See section 33-8.5-105 (2) in technical comment #1 for an example.

or

(1):

(a); and

(b):

(I); or

(II).

See section 33-8.5-108 in technical comment #1 for an example.

- b. When using roman numerals to denote subparagraphs, the roman numerals should be in capital letters, not in lowercase letters. Please make that change throughout the proposed initiative.
- c. Notice that in technical comment #6 (a) above, the words “and” and “or” are added at the end of the penultimate item in a list. Please consider adding “and” or “or”, as appropriate, throughout the proposed initiative. However, if the provision includes within it a complete sentence with a period, the provision should end in a period, not a semicolon.
- d. Consider breaking up the definition of “habitat degradation” instead of using the colon and the long list. For example:

“Habitat degradation” means ... including, but not limited to:

(a) Excessive erosion;

...

(d) Habitat fragmentation; or

(e) Suppression of natural ecological processes, such as fire or flooding.

Should the proponents prefer to keep the paragraph structured as is, drafting conventions require capitalizing the first word after a colon, meaning the word “excessive” should be written as “Excessive.”

- e. In section 2, there appear to be two separate divisions within that section. Please see section 33-8.5-102 in technical comment #1 above for an example of how to structure this provision correctly.
- f. In section 4, subsection (1) has a paragraph (a) but no paragraph (b). In addition, subsection (1) is not an introductory portion, and thus a paragraph (a) cannot follow. Finally, subsection (1)(a)(vii) does not follow off the introductory portion in subsection (1)(a). That provision should be restructured. Consider restructuring as follows:



(1) (a) **Establishment and structure.** THERE IS HEREBY ESTABLISHED THE WILDLIFE AND ECOSYSTEM CONSERVATION COMMISSION ... VESTED WITH AUTHORITY TO CARRY OUT THE PURPOSES OF THIS ARTICLE 8.5. THE COMMISSION CONSISTS OF THE FOLLOWING NINE MEMBERS:

(I) THREE INDEPENDENT ...;

...

(V) ONE ENVIRONMENTAL POLICY SPECIALIST ...; AND

(VI) ONE WILDLIFE MANAGEMENT EXPERT ... .

(b) NO APPOINTEE MAY HAVE ANY FINANCIAL INTEREST ... .

- g. Every provision should end with punctuation. Please add punctuation in subsections (2)(a)(i)(1) and (2)(a)(i)(2) of section 5.
  - h. In section 8, the sentence “All impact fees shall be collected prior to project commencement and deposited into the conservation and biodiversity protection fund” is not associated with any subsection, paragraph, subparagraph, or sub-subparagraph. Consider making it a subsection (3), and then renumbering the provisions that follow.
  - i. In subsection (4) of section 8, a (IV) is missing before the sentence that begins “Public-private partnership initiatives;”
7. **Style.** The following comments concern drafting conventions particular to the Colorado Revised Statutes:
- a. Do not use the ampersand. Write out “and.”
  - b. In the definitions section, only the first word of each definition should be capitalized. See section 33-8.5-103 in technical comment #1.
  - c. It is unnecessary to include the words "but not limited to" in the definition of “mitigation,” in subsection (1)(a)(vii) of section 4, and in subsection (4)(a) of section 8;
  - d. In the definition of “Wildlife corridor” in section 3:
    - i. Consider removing the comma that appears after "zones" and substituting the words "and is"; and

- ii. Instead of the phrase "genetic bottlenecks," the proponents may consider either using more familiar wording (e.g., "significant population reductions") or providing a definition for "genetic bottleneck."
  - e. The word "non-scientific" does not need to be hyphenated;
  - f. It is standard drafting practice to not capitalize common nouns but to only capitalize proper nouns, such as "Colorado." Additionally, do not capitalize the names of governmental agencies. The first letter of the first word of a sentence should be capitalized, regardless of what the word is.
    - i. In section 2, do not capitalize the name of the commission, Colorado parks and wildlife, or the Colorado wildlife corridor network;
    - ii. In subsection (2) of section 3, only capitalize the words "United States" when citing the United States fish and wildlife service;
    - iii. In subsection (5) of section 3, do not capitalize the name of the commission;
    - iv. In subsection (3) of section 5, do not capitalize the word "protection";
    - v. In subsection (2)(b) of section 7, do not capitalize "attorney general's office"; and
    - vi. In section 8, write "Colorado General Assembly," the names of any funds, and the "commission" in lowercase;
  - g. Because the use of acronyms can be confusing for readers, please keep the use of them to a minimum. See substantive comment #9a.
  - h. Consider using "money" instead of "funds." Because funds are where money is transferred and credited, the word "money" is preferred.
8. **Numbers.** The following comments concern standard drafting practice for writing numbers. Standard drafting practice is to use words for numbers (i.e., "three" not "3").

- a. In Sections 4 and 8, it is unnecessary to include numbers in parentheses. Subsection (1)(a)(I) of section 4 should read, in part, “Three independent ecologists ...”;
- b. See section 33-8.5-105 in technical comment #1, where percentages are written in words, not in numbers; and
- c. Write “one-half of one percent,” not “0.5%,” in subsection (2)(b) of section 9.

**9. Citations.** Please consider using standard drafting conventions when citing the following:

- a. In section 3, in the definition of “endangered species,”
  - i. There is no need to include an acronym for the federal Endangered Species Act, and the act should be cited as:  
  
... the federal “Endangered Species Act of 1973”, 16 U.S.C. sec. 1531 et seq., ...
  - ii. To comply with standard drafting practice, the proponents may refer to "the state" or "Colorado" rather than "the State of Colorado";
- b. In the definition of “keystone species,” the proposed initiative references the term "U.S. Fish and Wildlife Service (USFWS)." Standard drafting practice is to refer to this agency as the "fish and wildlife service within the federal department of the interior." Alternatively, the proponents may consider defining the department as the “fish and wildlife service” and using this phrase consistently in the proposed initiative.
- c. In statute or the state constitution, do not use the word “Act.” Instead, use the article, section, or subsection number. For example, in section 2, do not write “the purposes of this Act.” Instead, write “the purposes of this [article 8.5 / section 17].”

10. In the definition of "mitigation," the second instance of the word "or," before “impact fees,” should be changed to "and."

11. Regarding the definition of "habitat degradation," the word "or" that precedes "suppression" should be changed to "and."