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Colorado General Assembly

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MEMORANDUM

To: Suzanne Taheri and Michael Fields

From: Legislative Council Staff and Office of Legislative Legal Services

Date: September 24, 2025

Subject: Proposed initiative measures 2025-2026 #159 and #160, concerning Voter Approval for Tax Expansion

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 initiatives.

The purpose of this statutory requirement of the directors of the 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 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.

Proposed initiatives **2025-2026 #159** and **#160** were submitted by the same designated representatives as a series of proposed initiatives. The comments and questions raised in this memorandum address both proposed initiatives **2025-2026 #159** and **#160**.

Earlier versions of this proposed initiative, including proposed initiatives **2025-2026 #137**, **#141**, and **#142**, were submitted by the same designated representatives, were

the subject of memoranda dated August 21, 2025, and September 3, 2025, and were discussed at public meetings on August 21, 2025, and September 5, 2025. The comments and questions raised in this memorandum do not include comments and questions that were addressed in the earlier memoranda or at the earlier meetings, 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

Purposes for Proposed Initiative 2025-2025 #159

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

1. To require advance voter approval for any tax expansion on and after the effective date of the initiative; and
2. To create a definition of tax expansion that applies to the Taxpayer's Bill of Rights (TABOR).

Purposes for Proposed Initiative 2025-2025 #160

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

1. To require advance voter approval for any tax expansion on and after the effective date of the initiative; and
2. To create a definition of tax expansion that applies to TABOR.

Substantive Comments and Questions

The substance of the proposed initiatives raise 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. What do you intend by using the phrase "the tax burden for any individual"?

- a. Is it your intent to exclude tax expansions that increase the tax burden of corporate entities, estates, and trusts from the voter approval requirement in the proposed initiative?
 - i. For example, if a change in a property tax classification increases the burden on a corporate entity, estate, or trust that holds the property, do you intend this change to require advance voter approval?
 - ii. If you do not intend to restrict voter approval to only tax expansions that increase a tax burden on human individuals, consider using broader terminology such as “taxpayer.”

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 initiatives as follows:

- 1. Please ensure that the language in the existing subsections of TABOR included in the proposed initiatives accurately reflect existing language. This would require:
 - a. Bolding the subsection headings “**Term definitions.**” in subsection (2) and “**Required elections.**” in subsection (4); and
 - b. Adding an “x” to the word tax in the phrase “a tax policy change directly causing a net tax revenue gain to any district.” in subsection (4)(a).