

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

To: Steven Ward and Michael Fields

From: Legislative Council Staff and Office of Legislative Legal Services

Date: February 26, 2025

Subject: Proposed initiative measure 2025-2026 #28 concerning a prohibition on state and local governments banning or restricting products or services based on their energy source

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 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 intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

Purposes

The major purpose of the proposed amendment to the **Colorado Revised Statutes** appears to be to prohibit state and local governments from banning or restricting products or services powered by an energy supply in common use based on the energy source that powers or fuels those products or services.

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. What do the proponents mean by the term "restrict" as its used in the proposed initiative? Is it the proponents' intent that the state and local governments be prohibited from exercising their police power in regulating products or services covered under the proposed initiative? Is it the proponents' intent that the state and local governments be prohibited from exercising their taxing authority over certain products or services covered under the proposed initiative?
3. The proposed initiative uses the phrase "products or services powered by an energy supply in common use".
 - a. Can the proponents explain what "services" the proposed initiative is intended to apply to?
 - b. With respect to the phrase "in common use":
 - i. Is the phrase "common use" intended to refer to the "products or services" or the "energy supply"?
 - ii. Is there a metric by which proponents intend for "in common use" to be measured or established?

Technical Comments

The following comments address technical issues raised by the form of the proposed initiative. These comments will be read aloud at the public meeting only if the proponents 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 suggested below.

1. Each statutory section being amended, repealed, or added is preceded by a separate amending clause explaining how the law is being changed. For example, the amending clause in section 1 should read "In Colorado Revised Statutes, **add** article 7.2 to title 6 as follows:".
2. Since there is no (2) in proposed section 6-7.2-102, there is no need to include the (1).
3. Please consider correcting what appears to be a typographical error in the second section number. "6.7.2-102." should be "6-7.2-102.".