

## MEMORANDUM

**To:** Donald Herbert Hanneman and Michael Andre Hancock

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

**Date:** July 30, 2025

**Subject:** Proposed initiative measure 2025-2026 #125, concerning State Revenue Supporting Road Transportation

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.

This proposed initiative **2025-2026 #125** was submitted by the same designated representatives as a part of a pair of related proposed initiatives, including proposed initiatives **2025-2026 #125** and **#126**. The comments and questions raised in this memorandum may be relevant to proposed initiative **2025-2026 #126** and are incorporated into, but will not be repeated in, that memorandum.

# Purposes

## Purposes for Proposed Initiative 2025-2026 #125

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

1. To require districts and enterprises, as those entities are defined in section 20 of article X of the Colorado Constitution, to spend all state revenue collected to support road transportation, as defined in the proposed initiative, on road transportation, as defined in the proposed initiative.
2. To create new definitions for the terms “motor vehicle,” “road transportation,” and “state revenue collected to support road transportation” that apply to the new section of the Colorado Constitution created by the proposed initiative.

## **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 states that when the majority of voters approve an initiative, the initiative “shall take effect from and after the date of the official declaration of the vote thereon by proclamation of the governor,” which occurs in late December or early January following the November election at which the voters approved the initiative. The proposed initiative lists January 1, 2027 as an effective date, which raises the following questions:
  - a. Is it your intent that all state revenue collected to support road transportation that is collected on or after January 1, 2027, be used on road transportation? If so, to avoid ambiguity, consider removing the effective date clause and instead revising subsection (1) of the proposed initiative by replacing “transportation, as defined in this section,” with “that is collected on or after January 1, 2027,” (As noted in the technical comments below, “as defined in this section” should be removed because subsection (2) of the proposed initiative already indicates that the definition of “road transportation” is “As used in this section,”).
  - b. Alternatively, is your intent that on and after January 1, 2027, all state revenue collected to support road transportation, whether collected before, on, or after January 1, 2027, be spent on road transportation? If so, to avoid ambiguity, consider removing the effective date provision and instead revising subsection (1) of the proposed initiative by inserting “on and after January 1, 2027,” after “law,” and replacing “as defined in this section” with language along the lines of “including all such revenue collected before January 1, 2027, that is unencumbered and unexpended as of that date and all such revenue collected on and after that date,”.
3. The effective date of January 1, 2027, is listed in the same section as the rest of the proposed initiative, but is written in normal lowercase font, whereas the rest of the proposed initiative is written in small capital font. Is it your intention to

include the effective date in the text of the Colorado Constitution? Or did you mean for the effective date to exist in its own section and apply to the proposed initiative but not appear in the text of the Colorado Constitution?

4. Article X, section 18 of the Colorado Constitution requires that “the proceeds from the imposition of any license, registration fee, or other charge with respect to the operation of any motor vehicle upon any public highway in this state and the proceeds from the imposition of any excise tax on gasoline or other liquid motor fuel except aviation fuel used for aviation purposes shall, except costs of administration, be used exclusively for the construction, maintenance, and supervision of the public highways of this state.” How does the proposed initiative interact with this existing constitutional provision?
5. The following comments and questions relate to the definition of “motor vehicle” in proposed initiatives 2025-2026 #125 and #126:
  - a. “Motor vehicle” is defined as “any self-propelled vehicle that is designed primarily for travel on, and is commonly used to transport persons or property over, the public streets, roads, highways, and bridges.” By using the article “the”, do you mean to designate any specific “public streets, roads, highways and bridges”?
  - b. Do you intend to exclude motor vehicles that do not commonly travel on bridges from this definition? If not, consider re-wording to “public streets, roads, highways or bridges”.
  - c. If you intend to exclude motor vehicles that do not commonly travel on bridges from this definition, how do you propose that a district or enterprise differentiates between a motor vehicle that commonly travels on bridges and a motor vehicle that does not? How will this be tracked and recorded?
6. The following comments and questions relate to the definition of “road transportation” in proposed initiatives 2025-2026 #125 and #126:
  - a. “Road transportation” is defined as “the construction, maintenance, and operation of the public streets, roads, highways, and bridges, designed and primarily employed for motor vehicle use, and includes the development and improvement of safety measures for motor vehicles traveling on the public streets, roads, highways, and bridges.” By using the article “the”, do

you mean to designate any specific “public streets, roads, highways and bridges”?

- b. Is the phrase “designed and primarily employed for motor vehicle use” intended to modify “bridges”, or is it intended to modify “public streets, roads, highways, and bridges”?
  - c. What does it mean for a street, road, highway, or bridge to be “primarily employed” for motor vehicle use?
  - d. Is road transportation undertaken by the state and local governments, by private entities, by both, or by other entities?
  - e. What does the phrase “safety measures for motor vehicles” mean and what kind of measures do you intend to include? How broadly do you intend for this to be interpreted?
7. The following comments and questions relate to the definition of “state revenue collected to support road transportation” in proposed initiatives 2025-2026 #125 and #126:
- a. “State revenue collected to support road transportation” is defined as:
    - i. “(i) All state sales and use or excise taxes, tolls, or fees imposed on motor vehicles and motor vehicle fuel, as well as any state taxes or fees imposed on prearranged motor vehicle rides and retail deliveries;
    - ii. (ii) Two-thirds (2/3) of state sales and use taxes collected on motor vehicle parts, equipment, materials, and accessories that are affixed to a vehicle; and
    - iii. (iii) All federal funds, including grants from federal transportation agencies, received by the state of Colorado for motor vehicle use on the public streets, roads, highways, and bridges.”.
  - b. What does it mean for “taxes, tolls, or fees” to be “imposed on motor vehicles and motor vehicle fuel”?
    - i. Do you intend to only include sales, use, and excise taxes specifically imposed on the sale and use of motor vehicles and motor vehicle fuel, or do you also intend to include vehicle registration fees, road

safety and bridge safety fees, and other taxes, tolls, or fees related to motor vehicle usage?

- ii. Is the category of “taxes, tolls, or fees imposed on motor vehicles and motor vehicle fuel” meant to include taxes, tolls, or fees collected by local governments and enterprises, or only those collected by the state?
  - c. What does it mean for federal funds to be received by the state “for motor vehicle use”? Can you specify which federal funds you intend to be included in this category?
8. Subsection (1) of the proposed initiative requires a “district or enterprise,” as defined in section 20 of article X of the Colorado Constitution, to spend “any state revenue collected” to support road transportation on road transportation.
- a. Does this include state revenue that is collected in excess of the limit on fiscal year spending as set forth in section 20 of article X of the Colorado Constitution?
  - b. Do you intend for state revenue collected to support road transportation to exclusively be used for road transportation, meaning that no portion of the revenue may be used for any related administrative costs?

## 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. The amending clause of the proposed initiative, which currently reads “Article X of the Colorado Constitution shall be amended to add a new section 22” should be given a section number and reformatted to read as follows:

**SECTION 1.** In the constitution of the state of Colorado, **add** section 22 to article X as follows:

2. When making an internal reference to an article in the Colorado Constitution, the article number should be included. For instance, “this article” in (1) of the proposed initiative should instead read “this article X.”
3. In subsection (1) of the proposed initiative, “as defined in this section,” should be removed because subsection (2) of the proposed initiative already indicates that the definition of “road transportation” is “As used in this section,”.
4. If the effective date clause remains subsection (3) of the proposed new section 22 of article X of the Colorado Constitution, its text should be shown in large and small capital letters.