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MEMORANDUM

To: Donald Herbert Hanneman and Michael Andre Hancock

From: Legislative Council Staff and Office of Legislative Legal Services

Date: September 26, 2025

Subject: Proposed initiative measures 2025-2026 #162 and #163, concerning State Revenue Supporting Road Transportation

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Legislative Council Staff 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 Staff 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 Staff 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 #162** and **#163** 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 #162** and **#163**.

Earlier versions of these proposed initiatives, proposed initiatives **2025-2026 #125** and **#126**, submitted by the same designated representatives, were the subject of memoranda dated July 30, 2025 and were discussed at a public meeting on August 1,

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 meeting, except as necessary to fully understand the issues raised by the revised proposed initiatives. 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 2025-2026 #162

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, if such revenue is collected during the ten-year period beginning on January 1, 2027 and ending December 31, 2036.
2. To require that:
 - a. Sixty percent of state revenue collected to support road transportation, as defined in the proposed initiative, be paid to the state highway fund to be used for the purposes specified in the proposed initiative;
 - b. Twenty-two percent of state revenue collected to support road transportation, as defined in the proposed initiative, be paid to county treasurers to be used for the purposes specified in the proposed initiative; and
 - c. Eighteen percent of state revenue collected to support road transportation, as defined in the proposed initiative, be paid to cities and incorporated towns to be used for the purposes specified in the proposed initiative.
3. 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.

Purposes for Proposed Initiative 2025-2026 #163

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

1. To require districts, as defined in section 20 of article X of the Colorado Constitution, to spend all state revenue collected for the purpose of supporting road transportation, as defined in the proposed initiative, on road transportation, as defined in the proposed initiative, if such revenue is collected during the ten-year period beginning on January 1, 2027 and ending December 31, 2036.
2. To require that:
 - a. Sixty percent of state revenue collected to support road transportation, as defined in the proposed initiative, be paid to the state highway fund to be used for the purposes specified in the proposed initiative;
 - b. Twenty-two percent of state revenue collected to support road transportation, as defined in the proposed initiative, be paid to county treasurers to be used for the purposes specified in the proposed initiative; and
 - c. Eighteen percent of state revenue collected to support road transportation, as defined in the proposed initiative, be paid to cities and incorporated towns to be used for the purposes specified in the proposed initiative.
3. 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 each of the proposed initiatives?
2. The following comments and questions relate to section (2) of the proposed initiatives concerning spending state revenue collected to support road transportation consistently with the highway users tax fund in effect as of January 1, 2026:
 - a. The highway users tax fund is currently funded and distributed according to a structure laid out in part 2 of article 4 of title 43 of the Colorado Revised Statutes. Current law provides that revenue raised by the excise tax imposed on gasoline and special fuel in excess of seven cents per gallon must be placed in the highway users tax fund and allocated to the state highway fund, to county treasurers, and to cities and incorporated towns in certain percentages. Is it your intent to change the current structure and distribution of the highway users tax fund?
 - b. What does “consistent with the allocation of the highway users tax fund in effect as of January 1, 2026” mean, given that the structure of funding in the proposed initiative is different from the highway users tax fund structure currently in statute?
 - c. If you did not intend to change the structure and distribution of the highway users tax fund, consider rephrasing to “State revenue collected to support road transportation shall be expended consistently with the highway users tax fund as provided in state law.”
 - d. If you did intend to change the structure and distribution of the highway users tax fund, did you intend to reduce funding to the department of transportation as provided in section 43-4-206 of the Colorado Revised Statutes?
 - e. If you did intend to change the structure and distribution of the highway users tax fund, should part 2 of article 4 of title 43 of the Colorado Revised

Statutes be amended in your proposed initiative so that there are not two conflicting versions of the distribution of the highway users tax fund?

- f. What does it mean for state revenue collected to support road transportation to be used “for purposes enumerated in this section”? Did you intend for all “state revenue collected to support road transportation”, as defined in the initiative, to be used only on “road transportation” as defined in the initiative?
 - g. Is “road transportation” as defined in the initiative broad enough to extend to all of the uses and allocations mentioned in part 2 of article 4 of title 43 of the Colorado Revised Statutes relating to the highway users tax fund?
3. The following comments and questions relate to the definition of “Road transportation” in section (3)(b) of the proposed initiatives:
- a. Is “road transportation” as defined in the initiatives broad enough to extend to all of the uses and allocations mentioned in part 2 of article 4 of title 43 of the Colorado Revised Statutes relating to the highway users tax fund?
 - b. What are the “directly related design, engineering, and management costs required for road transportation” and what does it mean to be “directly related” in this context?
4. The following comments and questions relate to the definition of “State revenue collected to support road transportation” in section (3)(c) of the proposed initiatives:
- a. The definition of “state revenue collected to support road transportation” contains the term “road transportation,” which is separately defined in the proposed initiative, but seems to encompass a broader category of revenue than revenue that is collected for “road transportation” as defined in the proposed initiative. If that is the case, to avoid confusion, consider changing the term “state revenue collected to support road transportation” to something that does not include the term “road transportation”, for example: “state road-related revenue” or “state transportation-related revenue.”
 - b. Does the definition of “State revenue collected to support road transportation” include tolls?

- c. In initiative 163, which requires districts, rather than both districts and enterprises, to spend state revenue collected to support road transportation on road transportation, does the definition of “State revenue collected to support road transportation” include fees collected by state enterprises on motor vehicles?

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 meeting only if the designated representatives 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 follows:

1. The initiatives note the intent to add a section 22 to the Colorado Constitution, but do not specify which article that section 22 should be added to. Please add the article number to the amending clause. For example:

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

2. The Colorado Constitution is divided into sections, and each section may contain subsections, paragraphs, subparagraphs, and sub-subparagraphs as follows:

X-X-XXXX. Headnote. (1) Subsection.

(a) Paragraph

(I) Subparagraph

(A) Sub-subparagraph

(B) Sub-subparagraph

(II) Subparagraph

(b) Paragraph

(2) Subsection

(3) Subsection

In subsection (2) in both proposed initiatives, provisions are numbered as subparagraphs, indicated by Roman numerals, although there is no paragraph, indicated by a lowercase letter. Please consider reorganizing the provisions of the proposed initiatives to follow typical organization.