

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

To: Jeremy Nuanes and Rick Nuanes

From: Legislative Council Staff and Office of Legislative Legal Services

Date: March 27, 2025

Subject: Proposed initiative measure 2025-26 #51, concerning the repeal of retail delivery fees

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 purpose of the proposed amendment to the Colorado Revised Statutes appears to be to repeal existing retail delivery fees.

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 an approved initiative takes effect "from and after the date of the official declaration of the vote thereon by proclamation of the governor, but not later than thirty days after the vote has been canvassed." In light of this provision, is section 19 of the proposed initiative necessary?
3. What is the proponents' intent for the funds and programs, such as the community access enterprise fee fund created in section 24-38.5-303 (5), C.R.S., that rely almost entirely upon retail delivery fee revenue?
4. Given the proposed initiative's general purpose of repealing existing retail delivery fees, what is the purpose of proposed section 43-4-218 (8), C.R.S.?
5. Proposed section 43-4-218 (8), C.R.S., states: "Ten one dollar items can have a maximum total retail delivery fee of ten cents." Does this mean that a delivery totaling ten dollars can have a maximum retail delivery fee of one dollar?
6. Is proposed sections 43-4-218 (8), C.R.S., meant to only apply to retail delivery fees described in section 43-4-218, C.R.S.?
7. Would the proponents consider amending sections 43-4-805 (5)(r)(I) and (5)(r)(III), C.R.S., to remove references to retail delivery fees that are repealed in the proposed initiative?
8. As a statutory change, the proposed initiative may be amended by subsequent legislation enacted by the General Assembly. Is this the proponents' intention?

9. The instruction in Section 10 of the proposed initiative says to repeal 43-4-205 (6.8) entirely, but only (b) onward is displayed as stricken. Is it the proponents' intention only to repeal subparagraph (6.8)(b), which pertains to revenue from the retail delivery fee?

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. Please bold the headnote of Section 21 of the proposed initiative. Also, current drafting language for a Safety Clause is as follows: "The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions."
2. The Colorado Revised Statutes are 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

3. In Section 11 of the proposed initiative, the added subsection (8) uses a capitalized (A) and (B) where it should use a lowercase (a) and (b).