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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 measure 2025-2026 #158, concerning Voter Approval for New and Increased 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 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.

An earlier version of this proposed initiative, proposed initiative **2025-2026 #136**, was submitted by the same designated representatives, was the subject of a memorandum dated August 21, 2025, and was discussed at a public meeting on August 21, 2025. The comments and questions raised in this memorandum do not include comments and questions that were addressed in the earlier memorandum or at the earlier meeting, 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 #158

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

1. To require advance statewide voter approval for any fee imposed by state law that is established or increased on or after January 1, 2027, and that is projected to generate over \$100 million in revenue in its first five fiscal years, which includes revenue from multiple fees that are collected to fund similar subjects or purposes and that have been created within the same year or the preceding five years, except for fees charged by institutions of higher education;
2. To require the ballot title for the creation or increase of such a fee to begin with specified language; and
3. To create a definition of “fee” that applies to Colorado law.

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 constitutes “similar subjects or purposes” for the fee revenue aggregation requirement in subsection (4.5)(b) of section 1 the proposed initiative?
 - a. To constitute a similar subject or purpose, do the fees at issue need to be collected by the same district? Do the fees need to benefit the same district, segment of the population, or geographic area?

- b. How broad is a “similar subject”? Would a category such as transportation or healthcare be a “similar subject”?

Technical Comments

The following comment addresses technical issues raised by the form of the proposed initiative. The comment will be read aloud at the public hearing only if the designated representatives so request. You will have the opportunity to ask questions about this comment at the review and comment hearing. Please consider revising the proposed initiative as follows:

1. Since section 2 of the proposed initiative, the applicability clause, will not itself become part of the Colorado constitution, it would more clearly identify the provisions to which it applies by relocating the applicability provision to section 1 of the proposed initiative as a new section 20 (4.5)(e), and changing the provision to read as follows: “(e) Subsections (4.5)(a) to (4.5)(c) of this section apply to fees enacted on or after the effective date of this subsection (4.5).”