

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: March 19, 2025

Subject: Proposed initiative measure 2025-2026 #45, concerning prohibiting government bans on 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 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

Purposes for Proposed Initiative 2025-2026 #45

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

1. Prohibit the state and local governments from banning or restricting products powered by an energy supply in common use based on the energy source that powers or fuels that product;
2. Prohibit the state and local governments from banning or restricting any type of energy service connection; and
3. Make an exception for health and safety restrictions of the International Building Code, or a successor code, to the prohibition on state and local governments banning or restricting products based on energy source or energy service connection.

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 requires that when the majority of voters approve an initiative, the initiative is effective on and after the date of the official declaration of the vote and proclamation of the governor.

Because the proposed initiative does not contain an effective date, this would be the default effective date. Does this default effective date satisfy your intent? If not, the designated representatives should include the desired effective date that is not earlier than the default effective date to comply with this constitutional requirement.

3. The following comments and questions relate to the first sentence in subsection (2) of the proposed initiative:
 - a. Is there a difference between an “energy supply” and an “energy source”?

- b. Should the phrase “based on the energy source that powers or fuels that product or service[]” be revised to remove “or service” since the language preceding it relates only to “products” and the language that follows it appears to be specific and applicable to “energy service connections”?
 - c. Is the following language meant to be an exhaustive list of the types of energy service connections that cannot be banned or restricted, or is it meant to be a non-exhaustive list used for illustrative purposes: “such as gas, propane, or solar[]”?
 4. Regarding the second sentence in subsection (2) of the proposed initiative, is it the proponents’ intent to allow the state or local governments to ban or restrict products powered by an energy supply in common use based on the energy source or ban and restrict an energy service connection if the ban or restriction is a health or safety restriction of the International Building Code or a successor code?

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. Consider rephrasing subsection (1) to say, “The people of the state of Colorado find and declare that” instead of “Declaration.”.
2. The following words should be capitalized: Health, Building, and Code.