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Colorado General Assembly

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MEMORANDUM

To: Tarn Udall & Aaron Citron

From: Legislative Council Staff and Office of Legislative Legal Services

Date: January 2, 2026

Subject: Proposed Initiative Measure 2025-26 #197, Concerning designating sporting goods sales tax revenue for conservation

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.

Purposes

The major purposes of the proposed amendments to the Colorado Revised Statutes appear to be:

1. Designating an amount of state sales tax revenue that approximates the amount of state sales tax revenue collected from sales of certain sporting goods and equipment (approximate sporting goods sales tax revenue) as a voter-approved revenue change as described in article X, section (7)(d) of the Colorado Constitution;
2. Directing legislative council staff to determine the approximate sporting goods sales tax revenue and establishing the method that legislative council staff should use to make that determination;
3. Directing the annual distribution of the approximate sporting goods sales tax revenue as follows: 47.5% to the great outdoors Colorado trust fund; 47.5% to the Colorado wildfire prevention and water fund, which fund is created by the proposed initiative and to be used for wildfire- and water-related projects; 2.5% to the outdoor equity grant fund; and 2.5% to the outdoor recreation economic development cash fund; and
4. Allowing for the adjustment of the amount of the approximate sporting goods sales tax revenue to be distributed according to the proposed initiative, under certain conditions.

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, you should include the desired effective date that is not earlier than the default effective date to comply with this constitutional requirement.

3. The following questions relate to section 24-77-110 (2) of the proposed initiative:
 - a. What is your intent in stating “existing state sales tax revenues collected from certain sporting goods and equipment”, rather than “state sales tax revenues collected from certain sporting goods and equipment”?
 - b. What is meant by the phrase “as an exception to the limits that would otherwise apply without limiting or affecting the collection or spending of other revenues”?
 - c. Would you consider referencing a specific definition or reference for the “limitation on state fiscal year spending”?
 - d. What is your intent in including proposed subsection (2)(c) of this section?
4. The following questions relate to subsection 24-77-110 (3) of the proposed initiative:
 - a. What was your intent in stating that the money in the conserve and protect Colorado’s water, land, and forests fund is “continuously appropriated on an annual basis”? Money in cash funds is either annually or continuously appropriated; what is your intent here?
 - b. What is the purpose in creating the conserve and protect Colorado’s water, land, and forests fund, if all of the money in the fund is annually appropriated to other funds?
 - c. When are the percentages calculated for purposes of proposed subsection (3)(d) of this section, and when are the appropriations made? How does this timing interact with proposed subsections (4)(d) and (4)(e) of this section?
 - d. Are you referring to the transfers described in proposed subsection (3)(d) of this section as “appropriations” rather than “transfers” because the amount of money being moved is unknown? If so, why do you use the word “transferred” in proposed section 24-33-119 (2)?

- e. Would you consider amending section 33-9-206 (1)(a) to allow for the transfer of money from the conserve and protect Colorado's water, land, and forests fund to the outdoor equity fund? Under current law, the outdoor equity fund only consists "of money credited to the fund pursuant to section 44-40-111 (12)."

5. The following questions relate to subsection 24-77-110 (4) of the proposed initiative:

- a. Proposed subsection (4)(c) of this section directs legislative council staff to consider a number of factors related to calculating the amount of wildfire and conservation revenue but does not allow for legislative council staff to act on those considerations. Was that intentional?
- b. Would you consider defining what should be captured as "wildfire and conservation revenue", so that legislative council staff could better determine whether a different approach would be best to calculate the amount of revenue?
- c. Is a new method for the wildfire and conservation revenue calculation required after the release of a new economic census data? What about changes to the North American industry classification system or the North American product classification system?
- d. Proposed subsection (4)(c)(III) of this section directs legislative council staff to consider whether legislative council staff has prepared "an alternative reliable estimate of statewide sales tax revenue." What is the purpose of directing legislative council staff to consider whether it has prepared something?
- e. Would you consider defining how legislative council staff or staff from the office of state planning and budgeting should make the determination described in proposed subsection (4)(d) of this section?
 - i. May wildfire and conservation revenue be determined to be the "actual cause" if General Fund revenue streams are generally declining?
 - ii. Is wildfire and conservation revenue to be determined the "actual cause" if the dollar amount needed to avoid a reduction of the tax

credits in the following tax year is less than projected wildfire and conservation revenue for the following tax year, fiscal year, or six-month period where the two overlap? Or determined in a completely different manner?

- iii. When and how often do the wildfire and conservation revenue reductions occur? If, for example, wildfire and conservation revenue is reduced for fiscal year 2027-28 to avoid a reduction of the tax credits in tax year 2028, does the wildfire and conservation revenue get reduced on a monthly basis through fiscal year 2027-28, or are the reductions meant to be accrued back to tax year 2028?
- f. How does proposed subsection (4)(d)(II) of this section interact with the conserve and protect Colorado's water, land, and forests fund being "continuously appropriated on an annual basis"?
- g. Would you consider adding "available for distribution pursuant to subsection (3) of this section" after "wildfire and conservation revenue amount" in the last sentence of proposed subsection (4)(e) of this section?
- h. Who makes the reduction determination required by proposed subsection (4)(e) of this section, when is that determination made, and who implements that determination?
- i. How, if at all, does the reduction required by proposed subsection (4)(e) of this section interact with the reduction required by proposed subsection (4)(d) of this section?
- j. If the amount of wildfire and conservation revenue is reduced pursuant to proposed subsection (4)(d) or (4)(e) of this section, does the distribution formula in proposed subsection (3)(d) of this section remain the same?

6. The following questions relate to proposed section 24-33-119:

- a. What is the purpose of creating the Colorado wildfire prevention and water fund, if all of the money in the fund is annually transferred to other funds?
- b. When should the transfers be made in proposed subsections (2) and (3) of this section?

- c. If the state treasurer should make the transfers described in subsections (2) and (3) of this section, please state that is the case (e.g. On XXX, the state treasurer shall transfer the following amounts from the Colorado wildfire prevention and water fund:).
- d. How should the “combination” required in subsections (2)(b), (2)(c), (3)(a), and (3)(b) of this section be determined? Who should make that determination and when?
- e. What is meant by “a substantially equal manner over a period of years” in subsection (3) of this section? Who makes that determination?

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. It is common drafting practice to use commas to set off parenthetical phrases. In subsection (1)(m) of 24-77-110, a comma is missing after “constitution” to set off “established by a vote of the people of Colorado and enshrined in article XXVII of the Colorado constitution”.
- 2. It is standard drafting practice to use "money" instead of "moneys," as appears throughout section 24-33-119.
- 3. It is standard practice to place periods outside of closing quotation marks. In paragraph (2)(b) of section 24-77-110, the closing period of the first sentence is inside of the quotation marks.
- 4. In paragraph (1)(i) of 24-77-110, a semicolon is used after nature that should be replaced with a comma to reflect the other elements of the list.
- 5. It is standard drafting practice to not use a comma between two dependent clauses connected by a conjunction. In paragraph (1)(n) of section 24-77-110, the comma after “wildlife” should be removed.