

# STATE OF COLORADO

## Colorado General Assembly

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## MEMORANDUM

**TO:** Horace Divine and Nicholas Hoover

**FROM:** Legislative Council Staff and Office of Legislative Legal Services

**DATE:** April 5, 2016

**SUBJECT:** Proposed initiative measure 2015-2016 #137 concerning the State Minimum Wage

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 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 intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

This initiative was submitted with a series of initiatives including proposed initiatives 2015-2016 #134 to #136. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memoranda for proposed initiatives 2015-2016 #134 to #136, except as necessary to fully understand the issues raised by the revised proposed initiative. Comments and questions addressed in those other memoranda may also be relevant, and those questions and comments are hereby incorporated by reference in this memorandum.

## **Purposes**

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

1. To increase the Colorado hourly minimum wage from the current minimum wage of \$8.31 to \$8.91 effective January 1, 2017;
2. To increase the Colorado hourly minimum wage to \$9.51 effective January 1, 2018;
3. To increase the Colorado hourly minimum wage to \$10.10 effective January 1, 2019, until the federal minimum wage exceeds \$10.10 per hour;
4. To eliminate the annual adjustment of the Colorado minimum wage for inflation as measured by the consumer price index for Colorado;
5. To require Colorado to adopt the federal minimum wage as the state minimum wage once the federal minimum wage exceeds \$10.10 per hour;
6. To eliminate the restriction that only \$3.02 per hour in tip income may be used by an employer to offset the minimum wage of employees who regularly receive tips;
7. To increase the Colorado hourly tipped employee minimum wage from the current minimum wage of \$5.29 to \$6.50 effective January 1, 2017, until the federal tipped minimum wage exceeds \$6.50 per hour; and
8. To require Colorado to adopt the federal minimum wage for employees who regularly receive tips as the state minimum wage for employees who regularly receive tips.

## **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. Under current legal drafting conventions, authority verbs such as “shall” are used to command a person or entity to do something. The proposed initiative increases, by operation of law, the minimum wage to \$8.91 per hour, \$9.51 per hour, and then \$10.10 per hour and increases the minimum wage of tipped

employees to \$6.50 per hour, effective January 1, 2017. Replacing the verb “shall be” in this context in the second and seventh lines of the proposed initiative with “is” would be consistent with current legal drafting conventions.

## **Technical Comments**

The following comments address technical issues raised by the form of the proposed initiative. These comments will be read aloud at the public meeting only if the proponents 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 suggested below.

1. Technical comments in the memos for proposed initiatives 2015-2016 #134 and #135 are incorporated by reference.