

# STATE OF COLORADO

## Colorado General Assembly

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### MEMORANDUM

**TO:** Ignacio Isidro Ramirez de Leon and Pilar Carillo Cabrera  
**FROM:** Legislative Council Staff and Office of Legislative Legal Services  
**DATE:** November 9, 2017  
**SUBJECT:** Proposed initiative measure 2017-2018 #71, concerning access to services provided by the Division of Motor Vehicles

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.

### Purposes

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

1. To allow a person who is not lawfully present in the United States to obtain a driver's license, minor driver's license, instruction permit, or identification card (collectively defined in statute as an "identification document") from the department of revenue upon presentation of a social security card or other

document evidencing a valid social security number, as an alternative to documenting an individual taxpayer identification number (ITIN);

2. To allow a person who is not lawfully present in the United States to obtain a replacement for an identification document that has been lost, stolen, or destroyed in the same manner as other persons may do so;
3. To extend the renewal-by-mail, electronic renewal, and delay-of-expiration provisions for driver's licenses to include licenses issued to persons not lawfully present in the United States;
4. To require all motor vehicle offices of the department of revenue to issue identification documents;
5. To prohibit the department of revenue from limiting the number of identification documents issued;
6. To appropriate money to the department of revenue to fund the issuance of identification documents in accordance with the proposed initiative; and
7. To make the proposed initiative effective upon passage.

## **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 section 1-40-105.5, Colorado Revised Statutes, the director of research of the legislative council is required to prepare an initial fiscal impact statement, which includes an abstract that appears on petition sections, for each initiative that is submitted to the Title Board. In preparing the statement, the director is required to consider any fiscal impact estimate prepared by the proponents.
  - a. Will the proponents submit the initiative to the Title Board? If so, when do the proponents intend to do so?
  - b. Are the proponents submitting a fiscal impact estimate today? If not, do the proponents plan to submit an estimate in the future, and, if so, when do the proponents intend to do so?

- c. To ensure that there is time for consideration the proponents are strongly encouraged to submit their estimate, if any, at least twelve days before the measure is scheduled for a Title Board hearing. The estimate should be submitted to the legislative council staff at [BallotImpactEstimates.ga@state.co.us](mailto:BallotImpactEstimates.ga@state.co.us).
3. The proposed initiative appears substantially similar to House Bill 16-1274, which did not pass. Is it the proponents' intent to enact that legislation through the initiative process?
4. If the proposed initiative is intended to enact H.B. 16-1274, it appears to be missing at least one provision. In H.B. 16-1274, the following sentence is added at the end of section 42-2-509 (1), Colorado Revised Statutes: "TO RENEW THE IDENTIFICATION DOCUMENT ISSUED TO A PERSON WHO IS NOT LAWFULLY PRESENT, THE HOLDER MUST PRESENT THE IDENTIFICATION DOCUMENT AND PROVIDE EVIDENCE OF CURRENT COLORADO RESIDENCY AS DETERMINED BY THE DEPARTMENT BY RULE." That sentence appears in all publicly available versions of the bill, meaning that it was never removed by amendment. Did the proponents intend to remove it, and, if so, why?
5. The proposed initiative contains an appropriation clause.
  - a. How was the amount of the appropriation determined?
  - b. What if the estimate of initial fiscal impact prepared by the director of research of the legislative council (see question 2 above) differs from this amount? Would the proponents consider replacing the specific dollar figure on page 5, line 15, with language that incorporates or adopts the amount of the director's estimate, or with a reference to some other external standard?
  - c. Presumably, appropriations would need to be made in future years, so this appropriation clause would not guarantee funding to implement the measure beyond fiscal year 2018-19. Is there a way to ensure long-term funding for the department's operations if the measure passes?
  - d. The appropriation is taken from the licensing services cash fund created in section 42-2-114.5 (1), Colorado Revised Statutes. The amount in that fund depends on the amount of fees collected for various services provided by the department, as described in subsection (2) of that section, and the department may raise or lower the fees in accordance with subsections (3) and (4). What if the fund does not contain enough

money to support the appropriation made in the proposed measure on the date that it takes effect? Should section 42-2-114.5, Colorado Revised Statutes, be amended to account for this possibility, or should another funding source be specified in addition to the licensing services cash fund?

6. Page 5, line 12 refers to “ALL DEPARTMENT OF MOTOR VEHICLE OFFICES.” Technically, the “department of motor vehicles” does not exist; the department of revenue has informally created a “division of motor vehicles” through administrative action. Could this reference be changed to more accurately represent this organizational structure? For example, you could say “ALL OFFICES [or “ANY OFFICE”] THAT THE DEPARTMENT OPERATES ANYWHERE IN COLORADO,” or “ANY OFFICE THROUGH WHICH THE DEPARTMENT ISSUED DRIVER’S LICENSES IN CALENDAR YEAR 2015.”
7. On page 5, lines 13-14, the proposal states, “THERE SHALL NOT BE ANY LIMITS [ON] THE NUMBER OF IDENTIFICATION DOCUMENTS ISSUED.” Is it correct to assume that this refers to an overall number, not the number of documents issued to any individual? If so, you might consider adding “WITHIN COLORADO” at the end or “OVERALL TOTAL” or “AGGREGATE TOTAL” before “NUMBER.”
8. The proposed initiative is statutory rather than constitutional, which means that the general assembly could amend the terms of the initiative after it becomes effective. Do the proponents foresee that happening?

## 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. Section 6 of the proposed initiative adds two new subsections to section 42-2-505, Colorado Revised Statutes. This could be combined with section 1 of the proposed initiative, which amends other portions of the same statute, under an amending clause that reads: “In Colorado Revised Statutes, 42-2-505, **amend** (1) introductory portion and (1)(c); and **add** (4) and (5) as follows:”.

2. If the proponents do not combine sections 1 and 6, a correction to the amending clause for section 6 is needed because the format is incorrect. It should read as follows:

**Section 6.** In Colorado Revised Statutes, 42-2-505, **add** (4) and (5) as follows:

Please follow the amending clause with the section number and the headnote in bold as the proponents have done correctly throughout the proposed ballot initiative.

3. It is standard drafting practice to use SMALL CAPITAL LETTERS [rather than ALL CAPS] to show the language being added to and stricken type, which appears as stricken type, to show language being removed from the Colorado constitution or the Colorado Revised Statutes. The new language added throughout the proposed initiative appears to be in ALL CAPS instead of SMALL CAPITAL LETTERS (SMALL CAPITAL LETTERS ARE ABLE TO BE CAPITALIZED LIKE THIS.).
4. The word “KNOW” on page 1, line 17, should be “KNOWN”.
5. There appears to be a stray numeral “9” on page 5, line 17.