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Colorado General Assembly

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MEMORANDUM

To: Brendan Witt & Aaron Citron

From: Legislative Council Staff and Office of Legislative Legal Services

Date: February 17, 2026

Subject: Proposed Initiative Measure 2025-2026 #228, Concerning Designate 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 states 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, directing the state treasurer to transfer an amount equal to approximate sporting goods sales tax revenue to the conserve and protect Colorado's water, land, and forest fund (conserve and protect fund), and creating the conserve and protect fund;

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. By July 1, 2027, and by July 1 of each year thereafter, directing the annual distribution of the approximate sporting goods sales tax revenue from the conserve and protect fund as follows: 47.5% to the great outdoors Colorado trust fund; 47.5% to the Colorado wildfire prevention and water fund (wildfire and water fund) created in the proposed initiative; 2.5% to the outdoor equity fund; and 2.5% to the outdoor recreation economic development cash fund;
4. For the 2027-2028 state fiscal year, directing the annual distribution of the approximate sporting goods sales tax revenue that is transferred to the wildfire and water fund as follows: \$10 million to the prescribed fire claims cash fund; 50% of the remaining money in the wildfire and water fund to the forest restoration and wildfire risk mitigation grant program cash fund and the healthy forests and vibrant communities fund as determined by the state forester; and 50% of the remaining money in the wildfire and water fund to the wildfire mitigation capacity development fund and the Colorado water conservation board construction fund as determined by the executive director of the department of natural resources.
5. For the 2028-2029 state fiscal year, and each state fiscal year thereafter, directing the annual distribution of the approximate sporting goods sales tax revenue that is transferred to the wildfire and water fund as follows: 50% of the money in the wildfire and water fund to the forest restoration and wildfire risk mitigation grant program cash fund and the healthy forests and vibrant communities fund as determined by the state forester and 50% of the money in the wildfire and water fund to the wildfire mitigation capacity development fund and the Colorado water

conservation board construction fund as determined by the executive director of the department of natural resources; and

6. 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. Proposed section 24-77-110 (3)(c) requires the treasurer to make certain transfers “by” July 1 of the relevant year. Does this mean the transfers need to be made before July 1 of the relevant year? If so, would it be problematic for a transfer related to a fiscal year to occur in a prior fiscal year?
4. The transfer described in proposed section 24-77-110 (3)(c) does not cite an associated fiscal year, as is done elsewhere. *See*, proposed section 24-33-119 introductory portion. Would the proponents consider stating the associated fiscal year here?
5. Proposed section 24-77-110 (4)(a) directs legislative council staff to “determine the amount of wildfire and conservation revenue.” For what period is legislative council staff required to estimate this revenue? Is it the next fiscal year, such that the March 2027 determination would be for state fiscal year 2027-28 “wildfire and conservation revenue”?

6. Proposed section 24-77-110 (2)(a) designates the sales tax revenue at issue in the proposed measure as a “voter-approved revenue change.” The “estimated adjustment factor,” as defined in section 39-22-123.5 and 39-22-130, relies on a comparison of “nonexempt revenue” across fiscal years. Since the sales tax revenue at issue in the proposed measure is a “voter-approved revenue change” that revenue is not “nonexempt revenue.” Thus, all other things being equal, this sales tax revenue likely decreases the “estimated adjustment factor,” as defined in section 39-22-123.5 and 39-22-130. How does this interact with proposed section 24-77-110 (4)(d)?
7. How do the reductions in proposed sections 24-77-110 (4)(d) and (4)(e) interact? Both potential reductions must be forecasted simultaneously in the December revenue forecast. Does the language effectively prioritize the reduction in proposed section 24-77-110 (4)(d) over the reduction proposed section 24-77-110 (4)(e)?
8. Proposed section 24-33-119 (2)(c) directs “[f]ifty percent of the remaining money to the wildfire mitigation capacity development fund.” After this distribution, how should the remaining fifty percent of the remaining money be distributed?
9. Are the annual transfers described in sections 24-33-119 (2) and (3) meant to only occur after the annual transfers described in section 24-77-110 (3)(c)? If so, would the proponents consider stating that?

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 standard drafting practice to set off nonessential phrases (i.e., introductory, parenthetical, or prepositional phrases) with commas. In proposed section 24-77-110 (1)(b), proponents should add a comma before the phrase, “WITH FOUR OF THE STATE’S LARGEST WILDFIRES IN HISTORY OCCURRING IN THE LAST FIVE YEARS,”.

2. This term is referenced incorrectly in proposed section 24-77-110 (1)(o):
“COLORADO OUTDOOR REGIONAL PARTNERSHIP INITIATIVES”. The correct reference is “COLORADO OUTDOOR REGIONAL PARTNERSHIPS INITIATIVE”.
3. If the proponents choose to implement the previous change, the subject and verb do not agree in proposed section 24-77-110 (1)(o): Proponents should change “...THE COLORADO OUTDOOR REGIONAL PARTNERSHIP INITIATIVES, WHICH RECEIVE FUNDING...” to “THE COLORADO OUTDOOR REGIONAL PARTNERSHIPS INITIATIVE, WHICH RECEIVES FUNDING...”.
4. This term is referenced incorrectly in proposed section 24-77-110 (3)(d)(III):
“OUTDOOR EQUITY GRANT FUND”. The correct reference is “OUTDOOR EQUITY FUND”.
5. It is standard drafting practice to refer to the “Colorado constitution” as the “state constitution”.
6. For clarity, references to the Colorado Revised Statutes are written in a standard format when referencing provisions *not within* the same section. For example, in proposed section 24-77-110 (3)(d)(IV), “SUBSECTIONS (3)(c) AND (3)(d) OF SUCH SECTION” should read, “SECTION 24-48.5-129 (3)(c) AND (3)(d)”.
7. For clarity, references to the Colorado Revised Statutes are written in a standard format when referencing provisions *within* the same section.
 - a. For example, in proposed section 24-77-110 (4)(b), “SUBSECTION (4)(a)” should be changed to “SUBSECTION (4)(a) OF THIS SECTION”.
 - b. For example, in proposed section 24-77-110 (4)(e), “PURSUANT TO THIS SUBSECTION” should be changed to “PURSUANT TO THIS SUBSECTION (4)(e)”.
8. In (2)(b), (2)(c), (3)(a), and (3)(b) of proposed section 24-33-119, proponents should adjust language from “...CREATED AT SECTION...” to “CREATED IN SECTION...”, per standard drafting practices.