

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

To: Brendan Witt & Aaron Citron

From: Legislative Council Staff and Office of Legislative Legal Services

Date: March 31, 2026

Subject: Proposed Initiative Measures 2025-2026 #308 & #309, 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 initiatives.

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 proposals and to avail the public of the contents of the proposals. Our first objective is to be sure we understand your intended purposes of the proposals. We hope that the comments and questions in this memorandum provide a basis for discussion and understanding of the proposals. 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.

Proposed initiatives **2025-2026 #308** and **#309** were submitted by the same designated representatives as a series of proposed initiatives. An earlier version of these proposed initiatives, proposed initiative **2025-2026 #228**, was submitted by the same designated representatives, was the subject of a memorandum dated February 17, 2026, and was discussed at a public meeting on February 19, 2026. The comments and questions raised in this memorandum do not include comments and questions that were

addressed in the earlier memorandum or at the earlier meeting, except as necessary to fully understand the issues raised by the revised proposed initiatives. Prior comments and questions that are not restated in this memorandum continue to be relevant and are considered part of this memorandum. The comments and questions raised in this memorandum address proposed initiatives **2025-2026 #308** and **#309**.

Purposes

Purposes for Proposed Initiative 2025-2026 #308

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

1. Designating an amount of state sales tax revenues collected from certain sporting goods and equipment as a voter-approved revenue change (wildfire and conservation revenue), as described in article X, section 20 (7)(d) of the Colorado Constitution; creating the conserve and protect Colorado's water, land, and forests fund; and directing the state treasurer to transfer an amount equal to the wildfire and conservation revenue to the fund;
2. Directing legislative council staff to determine the amount of wildfire and conservation revenue and establishing the methodology that legislative council staff should use to make that determination;
3. On July 1, 2027 for the 2027-28 state fiscal year, and on July 1 for each state fiscal year thereafter, directing the annual distribution of the wildfire and conservation revenue from the conserve and protect Colorado's water, land, and forests fund as follows: 47.5% to the great outdoors Colorado trust fund; 47.5% to the Colorado wildfire prevention 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 money transferred to the Colorado wildfire prevention and water fund as follows: \$10 million to the prescribed fire claims cash fund; 50% of the remaining money 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 the other 50% of the remaining money 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 money credited to the Colorado wildfire prevention and water fund as follows: 50% of the money 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 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 wildfire and conservation revenue generated for the upcoming fiscal year and allowing the revenue to be subject to reduction if the full amount would cause a reduction in the credit amount available for either the family affordability tax credit or the earned income tax credit.

Purposes for Proposed Initiative 2025-2026 #309

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

1. Designating an amount of state sales tax revenues collected from certain sporting goods and equipment as a voter-approved revenue change (wildfire and conservation revenue), as described in article X, section 20 (7)(d) of the Colorado Constitution; creating the conserve and protect Colorado's water, land, and forests fund; and directing the state treasurer to transfer an amount equal to the wildfire and conservation revenue to the fund;
2. Directing legislative council staff to determine the amount of wildfire and conservation revenue and establishing the methodology that legislative council staff should use to make that determination;
3. On July 1, 2027 for the 2027-28 state fiscal year, and on July 1 for each state fiscal year thereafter, directing the annual distribution of the wildfire and conservation revenue from the conserve and protect Colorado's water, land, and forests fund as follows: 38% to the great outdoors Colorado trust fund; 57% to the Colorado wildfire prevention 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 money transferred to the Colorado wildfire prevention and water fund as follows : \$10 million to the prescribed fire claims cash fund; 50% of the remaining money 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 the other 50% of the remaining money 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 money credited to the Colorado wildfire prevention and water fund as follows: 50% of the money 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 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 wildfire and conservation revenue generated for the upcoming fiscal year and allowing the revenue to be subject to reduction if the full amount would cause a reduction in the credit amount available for either the family affordability tax credit or the earned income tax credit.

Substantive Comments and Questions

The substance of the proposed initiatives 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 each of the proposed initiatives?
2. What is the proponents' intent in including proposed section 24-77-110 (3)(d)? How is it determined whether money expended from the conserve and protect Colorado's water, land, and forests fund is supplementing and not supplanting existing funding? Who makes that determination? What happens if it is determined that money expended from the conserve and protect Colorado's water, land, and forests fund is supplanting and not supplementing existing funding?
3. By removing the language from proposed initiatives 2025-2026 #308 and #309 that was in proposed initiative 2025-2026 #228 relating to the reduction of the

amount of wildfire and conservation revenue distribution required by the proposed initiative in relation to the payment to local governments for certain lost property tax revenue, is it the proponents' intent to not modify the amount of wildfire and conservation revenue distributed according to these proposed initiatives as a result of the amount of state revenue in excess of the state revenues cap?

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 initiatives as follows:

1. For clarity, it is common drafting practice to place an adverbial phrase closest to what it modifies. For example, in section 24-77-110 of both proposed initiatives, proponents should consider rewording (1)(q) as follows: "... AND INVESTS, THROUGH GRANTS TO ORGANIZATIONS THAT PROVIDE TRANSFORMATIONAL CONSERVATION, OUTDOOR EDUCATION, AND EXPERIENTIAL LEARNING PROGRAMS, IN THE NEXT GENERATION OF COLORADANS LEARNING ABOUT THE IMPORTANCE OF OUR LAND AND WATER;"
2. It is common drafting practice to use commas to set off parenthetical phrases. For example:
 - a. In section 24-33-119 (2)(b) of both proposed initiatives, proponents should consider adding a comma as follows: "... IN SECTION 23-31-313 (10), WITH THE STATE FORESTER TO DETERMINE THE AMOUNT ...".
 - b. In section 24-33-119 (2)(c) of both proposed initiatives, proponents should consider adding a comma as follows: "... IN SECTION 37-60-121 (11)(b)II), WITH THE EXECUTIVE DIRECTOR OF THE DEPARTMENT ...".
 - c. In section 24-33-119 (3)(a) of both proposed initiatives, proponents should consider adding a comma as follows: "... IN SECTION 23-31-313 (10), WITH THE STATE FORESTER TO DETERMINE THE AMOUNT ...".
 - d. In section 24-33-119 (3)(b) of both proposed initiatives, proponents should consider adding a comma as follows: "... IN SECTION 37-60-121 (11)(b)II), WITH THE EXECUTIVE DIRECTOR OF THE DEPARTMENT ...".