

# 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 #134 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 #135 to #137. 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 #135 to #137, 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;
4. To continue to adjust the hourly minimum wage annually for inflation as measured by the consumer price index for Colorado;
5. 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;
6. To increase the Colorado hourly tipped employee minimum wage from the current minimum wage of \$5.29 to \$5.70 effective January 1, 2017;
7. To increase the Colorado hourly tipped employee minimum wage to \$6.10 effective January 1, 2018;
8. To increase the Colorado hourly tipped employee minimum wage to \$6.50 effective January 1, 2019; and
9. To continue to adjust the hourly tipped employee minimum wage annually for inflation as measured by the Consumer Price Index for Colorado.

## **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 \$5.70 per hour, \$6.10 per hour, and \$6.50 per hour, with annual adjustments for inflation thereafter. Replacing the verb “shall be” in this context in the first three lines, the eighth and ninth lines, and the first “shall be” on the eleventh line of the proposed initiative with “is” would be consistent with current legal drafting conventions.

3. The current language used in section 15 of Article XVIII of the Colorado constitution refers to the “Consumer Price Index used for Colorado.” Because the only consumer price index available for Colorado is for “Denver-Boulder-Greeley,” would you consider changing the reference from “Colorado” to “Denver-Boulder-Greeley”?

## 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. Each constitutional section being amended, repealed, or added is preceded by a separate amending clause explaining how the law is being changed. Only the instruction word (**add**, **amend**, **repeal**, etc.) should be in bold-faced type and the article should be shown as a Roman numeral as it appears in the Colorado constitution. For example:

**SECTION 1.** In the constitution of the state of Colorado, **amend** section 15 of article XVIII as follows:

2. It is standard drafting practice to use SMALL CAPITAL LETTERS to show the language being added to the Colorado constitution and stricken type, which appears as stricken type, to show language being removed from the Colorado constitution or the Colorado Revised Statutes. The last sentence of Section 15, which begins “[n]o more than \$3.02 per hour,” has been deleted rather than being shown in stricken type. It should be reinserted into the text in stricken type before the new language that begins: “BEGINNING JANUARY 1, 2017,.”

3. Punctuation that follows stricken language should also be stricken. The comma following “~~adjusted annually for inflation~~” should appear in stricken type.

4. It is standard drafting practice to set off a year with commas. Commas should be added after “2018” and “2019.” For example:

“BEGINNING JANUARY 1, 2018, TO \$9.51 ...”

“ON JANUARY 1, 2019, TO \$10.10 ...”

5. There should be a comma following the word “THEREAFTER.”

6. It is standard drafting practice to use a complete sentence for the effective date. For example:

**SECTION 2.** This section is effective January 1, 2017.