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MEMORANDUM

TO: William Ray and Richard Evans

FROM: Legislative Council Staff and Office of Legislative Legal Services

DATE: April 6, 2016

SUBJECT: Proposed initiative measure 2015-2016 #149, concerning a new transportation safety sales and use tax

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 #146 to 155. 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 #146 to 148, 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. Only new comments and questions are included in this memorandum.

Purposes

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

1. To create a temporary transportation safety sales and use tax at a rate of 6.2 cents per \$10 of commodities or services sold;
2. To allow the state, counties, cities, and towns to use the transportation safety sales and use tax revenue to fund improvements to highways within the state and to fund newly-defined transportation safety and congestion relief projects in the state;
3. To prohibit the transportation safety sales and use tax revenue from being used to directly fund roadway improvements of a toll road;
4. To specify that not more than 3% of the transportation safety sales and use tax revenues may be expended on administration or the hiring or additional departmental employees;
5. To require the Colorado Department of Transportation to publicly disclose on its website all of the expenditures related to the transportation safety sales and use tax; and
6. To conclude the transportation safety sales and use taxes on July 1, 2027.

Substantive Comments and Questions

The substance of the proposed initiative raises the following comments and questions:

1. What is the significance of the 10-year period? This is relevant because the period is lengthened to 12 years in proposed initiatives 2015-16 #148 and 153.
2. Section 43-4-205 (6) (b), Colorado Revised Statutes, states that the revenue “may not be expended for administrative purposes.” Paragraph (c) of subsection (6.4) in section 4 of this proposed initiative specifies that “Not more than three percent of such revenues may be expended on administration or the hiring of additional departmental employees.” Is this paragraph intended to undo the prohibition for the use of revenues for administrative purposes in section 43-4-205 (6) (b), Colorado Revised Statutes? Would the proponents consider changing their paragraph (c) so that it reads “Notwithstanding the limitation in paragraph (b) of subsection (6) of this section that revenues may not be expended for administrative purposes, up to three percent of the

- revenues allocated pursuant to this subsection (6.4) may be expended on administration or the hiring of additional departmental employees.”?
3. Does the inclusion of this language in this proposed initiative and in proposed initiative 2015-16 #150 imply that the transportation safety sales and use tax revenues may be used for administrative purposes without limitation in proposed initiatives 2015-16 #146, #147, #148, #151, #152, #153, #154, and #155?

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. There are no new technical comments for proposed initiative 2015-2016 #149, please see comments from proposed initiative 2015-2016 #146.