

# STATE OF COLORADO

## Colorado General Assembly

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## MEMORANDUM

**TO:** Matthew Mansfield and Sean Niehoff  
**FROM:** Legislative Council Staff and Office of Legislative Legal Services  
**DATE:** April 31, 2022  
**SUBJECT:** Proposed initiative measure 2021-2022 #131, concerning Financial Assurance for Oil and Gas Operators

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 require oil and gas operators to provide financial assurance to cover future closure, remediation, and restoration of oil and gas wells;

2. To require oil and gas operators to provide a minimum of one hundred thirty thousand dollars of financial assurance for each well operated by an oil and gas operator, unless the operator meets the bonding requirements set by the oil and gas conservation commission.

## **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. Section 34-60-103 (6.8), C.R.S., defines "operator" as "any person who exercises the right to control the conduct of oil and gas operations." Further, the statute specifies that references to "operator" in the statute include "an operator of an underground natural gas storage cavern and an applicant for a certificate of closure." Should "operators" be used in the proposed initiative instead of "oil and gas operators"?
3. What does "closure, remediation, and restoration" mean? The statute uses the terms "plug, reclaim, and remediate" to describe the types of future costs covered by a financial assurance. Should "plugging, reclamation, and remediation" be used in the proposed initiative instead of "closure, remediation, and restoration"?
4. Should the statute specify a minimum financial assurance for oil and gas facilities that are not an oil and gas well or for seismic operations conducted by an operator?
5. Should the minimum financial assurance be modified over time to account for inflation? If so, how?
6. What does "the bonding requirement set by the commission" mean? Will the commission set the bonding requirement by rule? The proponents may consider adding language to clarify the nature of the bonding requirement and to establish a date certain by which the commission must determine a bonding requirement by rule or otherwise.
7. Should the statute specify a date by which the commission is required to set the bonding requirement?

## 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 statutory section being amended, repealed, or added is preceded by a separate amending clause explaining how the law is being changed. In the amending clause, the action (amend, repeal, add) is shown in bold. For example:

In Colorado Revised Statutes, 34-60-106, **amend** (13) introductory portion as follows:

2. After the section number for the final section in the bill, the headnote is shown in bold. For example:

**SECTION 2. Effective date.** This amendment takes effect upon official declaration of the governor and is self-executing.