

# STATE OF COLORADO

## Colorado General Assembly

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## MEMORANDUM

**TO:** Jon Caldara and Mike Krause  
**FROM:** Legislative Council Staff and Office of Legislative Legal Services  
**DATE:** April 4, 2018  
**SUBJECT:** Proposed initiative measure #172, concerning authorize bonds for transportation projects

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.

Earlier versions of this proposed initiative, proposed initiatives 2017-2018 #148 to #150, were the subject of memoranda dated February 21, 2017, which were discussed at public meetings on February 23, 2017. The substantive and technical comments and questions raised in this memorandum will not include comments and questions that were addressed at the earlier meetings, except as necessary to fully understand the issues raised by the revised proposed initiative. However, the prior comments and questions that are not restated here continue to be relevant and are hereby incorporated by reference in this memorandum.

## **Purposes**

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

1. Without raising taxes, to authorize the department of transportation to issue revenue anticipation notes in a maximum amount of \$3.5 billion, with a repayment cost of \$5.2 billion and a repayment term of 20 years, to be used exclusively for road and bridge expansion, construction, maintenance, and repair of specified projects;
2. Without raising taxes or fees, to require the general assembly to identify and appropriate sufficient funds for the repayment cost of the revenue anticipation notes issued by the department of transportation;
3. To exclude the proceeds of the revenue anticipation notes from state fiscal year spending limits;
4. To specify the projects for which the revenue anticipation note proceeds may be expended; and
5. To specify that the distributed proceeds are in addition to other money appropriated for road and bridge expansion, construction, maintenance and repair; that proceeds shall only be used for costs directly related to the planning, engineering, environmental assessments, procurement, and administrative costs of specified projects; and that the executive branch may not transfer the proceeds for other programs or purposes.

## **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. In prior versions of this initiative, proposed section 43-4-1103 provided that "[a]s soon as possible after the effective date of this part 11, but not later than July 1, 2019, the executive director...shall issue" the revenue anticipation notes. This proposed initiative provides that "[a]s soon as possible after the effective date of this part 11, the executive director...may issue" the notes.

- a. Is this change intended to make the issuance of the notes optional, rather than mandatory?
  - b. If the proponents do intend for the issuance of the notes to be optional, what is the effect of including "[a]s soon as possible after the effective date"? Is that language intended to limit the time in which the executive director has the authority to issue the notes? If so, should the section set a specific date on which the director's authority to issue the notes expires?
3. Proposed section 43-4-1104 states that the general assembly "shall" make an appropriation as soon as possible after the effective date, on or before July 1, 2019, and on or before July 1 of each year thereafter until the notes are paid in full.
  - a. If the issuance of the notes is optional, what is the effect of making the duty to appropriate funds mandatory?
  - b. If the issuance of the notes is optional, would the proponents consider making the duty to appropriate funds contingent on the executive director actually issuing the notes?
4. Proposed section 43-4-1106 lists projects to be funded with revenue from note proceeds collected as a result of the measure. If one or more of these projects are funded through other revenue streams prior to the measure's passage, may those funds be spent elsewhere instead?
5. Under section 1-40-105.5, Colorado Revised Statutes, the director of research of the Legislative Council is required to prepare an initial fiscal impact statement, which includes an abstract that appears on petition sections, for each initiative that is submitted to the Title Board. In preparing the statement, the director is required to consider any fiscal impact estimate prepared by the proponents.
  - a. Will you submit the initiative to the Title Board? If so, when do you intend to do so?
  - b. Are you submitting a fiscal impact estimate today? If not, do you plan to submit an estimate in the future, and if so, when do you intend to do so?
  - c. To ensure that there is time for consideration, you are strongly encouraged to submit your estimate, if any, at least 12 days before the measure is scheduled for a Title Board hearing. The estimate should be

submitted to the Legislative Council staff at  
[BallotImpactEstimates.ga@state.co.us](mailto:BallotImpactEstimates.ga@state.co.us).

## **Technical Comments**

There are no new technical comments in response to this initiative.