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Colorado General Assembly

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MEMORANDUM

To: Jon Caldara and Nash Herman

From: Legislative Council Staff and Office of Legislative Legal Services

Date: March 6, 2025

Subject: Proposed initiative measure 2025-2026 #39, concerning labor organization affiliation and dues

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 and questions 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 and questions intended to aid designated representatives, and the proponents they represent, in determining the language of their proposal and to avail the public of the contents of the proposal. Our first objective is to be sure we understand your intended purposes of the proposal. We hope that the comments and questions in this memorandum provide a basis for discussion and understanding of the proposal. Discussion between designated representatives or their legal representatives and employees of the Colorado Legislative Council and the Office of Legislative Legal Services is encouraged during review and comment meetings, but comments or discussion from anyone else is not permitted.

An earlier version of this proposed initiative, proposed initiative 2025-2026 #12, was submitted by the same designated representatives, was the subject of a memorandum dated January 24, 2025, and was discussed at a public meeting on January 27, 2025. 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

initiative. Prior comments and questions that are not restated in this memorandum continue to be relevant and are considered part of this memorandum.

Purposes

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

1. To prohibit an employee, including part-time and seasonal employees, as a condition of employment or continuation of employment, from being required to:
 - a. Resign or refrain from voluntary affiliation with or financial support of a labor organization;
 - b. Become or remain a member of a labor organization; or
 - c. Pay dues to, or make a payment to a third party in lieu of dues to, a labor organization or its affiliate; and
2. To prohibit the deduction of union dues or other payments made to a labor organization or its affiliate from the wages, earnings, or compensation of an employee unless the employee has authorized the deduction in writing.

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. Should "employee" be defined for the purposes of subsection (3) of the proposed initiative? "Employee" is defined in the Colorado Revised Statutes 95 times with either very broad or somewhat narrow language. For example, section 8-2-126 (2)(d), Colorado Revised Statutes, defines "employee" very broadly to mean "every person who may be permitted, required, or directed by any employer in consideration of direct or indirect gain or profit to engage in any employment." Other definitions of "employee" limit the definition to mean employees in the private sector or the public sector only.

Technical Comments

There are no technical comments.