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Colorado General Assembly

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MEMORANDUM

To: Kiran Herz and Jaiden Hwang
From: Legislative Council Staff and Office of Legislative Legal Services
Date: March 12, 2025
Subject: Proposed initiative measure 2025-2026 #40, concerning admission to state institutions of higher education

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.

Purposes

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

1. Authorizing automatic admissions to state-supported institutions of higher education for in-state students who are in the top 10% of their graduating

high school classes and applying for admission as incoming freshman students; and

2. Allowing state-supported institutions of higher education to determine whether admitted in-state students require additional college preparation courses.

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. Article V, section 1 (4)(a) of the Colorado Constitution requires that when the majority of voters approve an initiative, the initiative is effective on and after the date of the official declaration of the vote and proclamation of the governor. The proponents have drafted the effective date of this proposed initiative as November 31, 2025. Odd-year election proposals are limited to state matters arising under article X, section 20 of the Colorado Constitution, also known as the Taxpayer's Bill of Rights, which generally involves tax policy changes. Additionally, there is no 31st day of November. Because this proposed initiative does not fall under the subject matter for odd-year election proposals, would the proponents consider changing the effective date for the initiative to November 30, 2026?
3. The following comments and questions relate to section 23-1-113.5 (1), C.R.S., of the proposed initiative:
 - a. This section of the proposed initiative pulls in current statutory language from section 23-1-113.5 (1), C.R.S., however, there is substantial language from section 23-1-113.5 (1), C.R.S., missing. What is the proponents' intent by leaving this language out of the proposed initiative? If the proponents intend to remove that language from statute, the language must be shown in strike type.
 - b. Would the proponents consider including a cross reference in section 23-1-113.5 (1), C.R.S., to the automatic admission procedures outlined in

section 23-1-113.5 (1.5), C.R.S., so the reader understands those procedures are described in another portion of the statutory section?

4. The following comments and questions relate to section 23-1-113.5 (1.5)(a), C.R.S., of the proposed initiative:
 - a. What do the proponents mean by the phrase "[e]ach state-supported institution of higher education shall admit an applicant for admission to the institution as an incoming freshman student if the applicant graduated in the school year preceding the academic year which the applicant is applying for admission. . ."? Is it the proponents' intent that automatic admission to a state-supported institution of higher education is only available to in-state students who attend college immediately following high school graduation?
 - b. What do the proponents mean by the phrase "generally recognized accrediting organization"?
 - c. The following questions focus on the phrase "a grade point average in the top 10% of the student's high school graduating class":
 - i. Is it the proponents' intent that institutions of higher education will select students for admissions with the highest grade point average first?
 - ii. Do the proponents intend for institutions of higher education to work with one another to create a standard system when reviewing each grade point average for students in the top 10% of the high school graduating class?
 - d. What do the proponents' mean by the sentence "[a]dmission granted under these procedures must be kept available until the 31st of January of the respective application season"?
 - e. How would an institution measure the degree to which an applicant has complied with its "rules on moral conduct"? Do institutions of higher education currently determine whether applicants have complied with their "rules on moral conduct"?
5. The following comments and questions apply to section 23-1-113.5 (1.5)(b), C.R.S., of the proposed initiative:

- a. Does section 23-1-113.5 (1.5)(b), C.R.S., apply only to in-state students who are in the top 10% of their graduating high school class?
 - b. Are there certain high school courses and applicable grades that an institution of higher education will measure to determine whether an applicant is required to enroll in additional college preparation courses in the summer immediately after the student is admitted to the institution of higher education?
 - c. Are applicants required to pay for the additional college preparation courses?
 - d. Is admission contingent on an applicant attending and passing the additional college preparation courses?
6. In section 23-1-113.5 (1.5)(c), C.R.S., what is the proponents' intent in stating that "[a] graduating student who does not qualify for admission under (1.5)(a) may apply to any higher education institution"?
7. The following comments and questions apply to section 23-1-113.5 (1.5)(d), C.R.S. of the proposed initiative:
 - a. Section 23-1-113.5 (1), C.R.S., establishes that institutions of higher education must enroll at least 55% of incoming freshmen as in-state students. Section 23-1-113.5 (1.5)(d), C.R.S. requires institutions of higher education to automatically admit 75% of incoming freshmen as in-state students who are at least in the top 10% of their graduating high school classes. Do the proponents intend to require institutions of higher education to enroll between 55% and 75% of incoming students as in-state students?
 - b. What do the proponents mean by "the institution must offer admission to all applicants with the same percentile rank as the last admitted"?
 - c. Will institutions of higher education only review class rank for automatic admissions?
8. The following comments and questions apply to section 23-1-113.5 (1.5)(e), C.R.S. of the proposed initiative:
 - a. What do the proponents mean by the phrase "[t]he percentile GPA necessary to enter the higher education institution for the current application period, as of the last week if within the application window,

and for the previous application period otherwise, under (1.5)(d), and if (1.5)(d) does not apply then (1.5)(a),..."?

- b. Do the proponents intend for the "percentile GPA" to be a more rigorous standard for students to meet than "a grade point average in the top 10 percent"?
 - c. How will an institution of higher education determine the "percentile GPA"?
 - d. Do the proponents intend that the "percentile GPA" will change frequently based on each application period?
9. Do the proponents intend to include community colleges, local district colleges, or area technical colleges in the non-exhaustive list in section 23-1-113.5 (1.5)(f), C.R.S.?
10. What is the proponents' intent in repealing the language in section 23-1-113.5 (5)(d.5), C.R.S.?

Technical Comments

The following comments address technical issues raised by the form of the proposed initiatives. These comments will be read aloud at the public hearing only if the designated representatives so request. You will have the opportunity to ask questions about these comments at the review and comment hearing. Please consider revising the proposed initiative as follows:

1. The Colorado Revised Statutes are divided into sections, and each section may contain subsections, paragraphs, subparagraphs, and sub-subparagraphs as follows:

X-X-XXXX. Headnote. (1) Subsection

(a) Paragraph

(I) Subparagraph

(A) Sub-subparagraph

(B) Sub-subparagraph

(II) Subparagraph

(b) Paragraph

(2) Subsection

(3) Subsection

2. Each statutory section being amended, repealed, or added is preceded by a separate amending clause explaining how the law is being changed. For example, if you intend to add, amend, or repeal language in the same section of the Colorado Revised Statutes, you would include the following amending clause: "In Colorado Revised Statutes, 23-1-113.5, **amend** (1); **repeal** (5)(d); and **add** (1.5) as follows:".
3. Each section in the Colorado Revised Statutes and the Colorado Constitution has a headnote. Headnotes briefly describe the content of the section. A headnote should be added to section 23-1-113.5, C.R.S., of the proposed initiative and be in bold-face type.
4. It is standard drafting practice when referencing statutory sections to include the word "section" before the number. For example, "section 23-1-113.5 (1.5)(a)."
5. It is standard drafting practice to use SMALL CAPITAL LETTERS [rather than ALL CAPS] to show the language being added to and stricken type, which appears as ~~stricken type~~, to show language being removed from the Colorado Constitution or the Colorado Revised Statutes.
6. For purposes of this statutory initiative, the word "shall" is defined in section 2-4-401 (13.7), C.R.S., and it means "that a person has a duty." The related word "must," which is defined in section 2-4-401 (6.5), C.R.S., "means that a person or thing is required to meet a condition for a consequence to apply." Furthermore, "'must' does not mean that a person has a duty."
7. Although the text of the proposed initiative should be in small capital letters, use an uppercase letter to indicate capitalization where appropriate. The following should be large-capitalized:
 - a. The first letter of the first word of each sentence;
 - b. The first letter of the first word of each entry of an enumeration paragraphed after a colon; and
 - c. The first letter of proper names.