

# STATE OF COLORADO

## Colorado General Assembly

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## MEMORANDUM

**TO:** Michael Fields and Jesse Mallory  
**FROM:** Legislative Council Staff and Office of Legislative Legal Services  
**DATE:** May 7, 2021  
**SUBJECT:** Proposed initiative measure 2021-2022 #39, concerning the reduction of the excise tax imposed on gasoline

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 purpose of the proposed amendment to the Colorado Revised Statutes appears to be to reduce, as of January 1, 2023, the excise tax imposed on gasoline from twenty-two cents per gallon or fraction thereof to twenty cents per gallon or fraction thereof.

## **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. This initiative appears to take effect upon the signature of the governor. Do the proponents anticipate that this proclamation will occur before January 1, 2023?
3. Have the proponents considered proposing similar reductions to the excise tax imposed on other types of fuels in article 27 of title 39, Colorado Revised Statutes, such as special fuels, fuel use for the propulsion of nonturbo-propeller or nonjet engine aircraft, and fuel used for the propulsion of turbo-propeller or jet engine aircraft?
4. Is it the proponents' intent that the distribution of the revenue raised by the excise tax imposed on gasoline remain the same as established in sections 43-4-205 (5) and (6), Colorado Revised Statutes?
5. If a gasoline distributor pays the current excise tax on gasoline before January 1, 2023, would a different distributor be liable for the new excise tax on gasoline, if the gasoline were transferred to that distributor after January 1, 2023?
6. If a person is found to have exported or imported gasoline or special fuel out of Colorado without a valid license and they are required to pay the excise tax on that gasoline in accordance with section 39-27-104 (1)(g)(V)(A), Colorado Revised Statutes, must that person pay the excise tax rate at the time of the improper exporting or importing of gasoline or at the time of the discovery of the improper exporting or importing?

## **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 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 1 of the proposed initiative and be in bold-face type, like so:

**39-27-102. Tax imposed on gasoline and special fuel – deposits – penalties.**

2. 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.
3. Since the proposed initiative is only amending (1)(a)(II)(A), and not the entirety of (1), the amending clause should specify "**amend** (1)(a)(II)(A) as follows:".
4. At the beginning of the amended section, please consider adding "(1)(a)" before the "(II)(A)" to better indicate to the reader what subsection is being amended.