

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Suzanne Taheri and Steven Ward

FROM: Legislative Council Staff and Office of Legislative Legal Services

DATE: February 28, 2023

SUBJECT: Proposed initiative measure 2023-2024 #16, concerning a Reduction in State Income Tax Rate

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.

This initiative was submitted with a series of initiatives including proposed initiatives 2023-2024 ##15 and 17. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memoranda for proposed initiatives 2023-2024 ##15 and 17, except as necessary to fully understand the issues raised by this proposed initiative. Comments and questions addressed in the memoranda for proposed initiatives 2023-2024 ##15 and 17 may also be relevant, and those questions and comments 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. To reduce both the individual and the corporate state income tax rate from 4.40% to 4.25%; and
2. To require that any decrease in state revenue from reducing the state income tax rate from 4.40% to 4.25% will reduce cash funds by a corresponding amount.

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. The proposed initiative requires that any decrease in state revenue from reducing the state income tax rate from 4.40% to 4.25% will reduce cash funds by a corresponding amount.
 - a. Income tax revenue is credited to the general fund. Is it the proponents' intent that money be transferred from cash funds to the general fund in an amount that corresponds to any decrease in revenue from reducing the income tax rate from 4.40% to 4.25% so that the general fund is unaffected by the decrease in revenue?
 - b. The proposed initiative references section 24-75-402, C.R.S., which establishes a maximum amount for the uncommitted reserves of a cash fund. Do the proponents intend for the maximum reserve amount specified in section 24-75-402 to be reduced by an amount that corresponds to any decrease in revenue from reducing the income tax rate from 4.40% to 4.25%?
 - c. Do the proponents intend that cash fund appropriations be reduced by an amount that corresponds to any decrease in state revenue from reducing the state income tax rate from 4.40% to 4.25%?
 - d. What process do the proponents intend will be used to determine the amount by which cash funds will be reduced?

- e. There are numerous cash funds specified in various sections of the Colorado Revised Statutes. Which cash fund maximum reserve amounts, balances, or appropriations will the proposed initiative require be reduced?
 - f. Many cash funds do not receive appropriations from the general fund. Do the proponents intend that cash funds that do not receive appropriations from the general fund be reduced?
 - g. The state's fiscal year runs from July 1st to June 30th of the following year, while a tax year runs from January 1st to December 31st. When will the amount of reduction to cash funds be determined?
 - h. On which tax year will the reduction to cash funds be based? For example, for fiscal year 2024-2025, will the reduction to cash fund appropriations be based on the 2024 tax year?
 - i. Data for the revenue generated during the 2024 tax year will likely not be available until 2025. If the reduction to cash funds is based on the first half of the state's fiscal year, do the proponents intend that the General Assembly pass supplemental appropriations bills to reduce the cash funds to meet the required reduction? For example, if the reduction to cash fund appropriations for the 2024-2025 fiscal year is based on the 2024 tax year, do the proponents intend for the General Assembly to pass supplemental appropriations bills to reduce the cash fund appropriations to meet the required reduction in funding?
 - j. Section 3 does not specify any section or sections of the Colorado Revised Statutes that are being amended. Is this the proponents' intent? If not, would the proponents consider specifying which sections of the Colorado Revised Statutes should be amended to require that any decrease in state revenue from reducing the tax rate from 4.40% to 4.25% will reduce cash fund appropriations by a corresponding amount?
3. Proposed initiatives 2023-24 ##15 and 17, which have the same proponents as this proposed initiative, seem to have a substantially similar purpose in that the proposed initiatives will, if approved, reduce the state individual and corporate income tax rates.
- a. Do the proponents intend that proposed initiatives 2023-24 ##15 and 17 and this proposed initiative appear on the same ballot?

- b. If so, what do the proponents believe the legal effect will be if the voters approve all three proposed initiatives?
- c. If not, is it the proponents' intent that proposed initiatives 2023-24 ##15 and 17 be withdrawn?
- d. If proponents do not intend that proposed initiatives 2023-24 ##15 and 17 be withdrawn, what is the intent of the proponents in also proposing proposed initiative #16?

Technical Comments

- 1. It is standard practice to include the entire subsection number of any subsection that is being amended. Section 1 of the proposed initiative has omitted the subsection number (1.7) that precedes (c).
- 2. When amending a date, it is standard practice to strike the entire date (day, month, and year) and indicate the new date in small capital letters as follows:

~~January 1, 2022~~, JANUARY 1, 2024,