

# STATE OF COLORADO

## Colorado General Assembly

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## MEMORANDUM

**To:** Suzanne Taheri and Michael Fields

**From:** Legislative Council Staff and Office of Legislative Legal Services

**Date:** January 21, 2026

**Subject:** Proposed initiative measure 2025-2026 #214, concerning an income tax rate cap

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Legislative Council Staff 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 Staff 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 Legislative Council Staff 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

### **Purpose for Proposed Initiative 2025-2026 #214**

The major purpose of the proposed amendment to the Colorado Revised Statutes appears to be to limit the state's income tax rate for individuals and corporations to 4.4%.

## 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.
  - a. Because the proposed initiative does not contain an effective date, this would be the default effective date. Does this default effective date satisfy your intent? If not, you should include the desired effective date that is not earlier than the default effective date to comply with this constitutional requirement.
  - b. A related issue is how to determine the tax years to which the 4.4% income tax rate limitation applies because the proposed initiative does not indicate a tax year or years in which the limitation is in effect. For example, if the governor's proclamation is on December 1, 2026, and no effective date is added to the proposed initiative, would the 4.4% limitation apply to the entire 2026 tax year? Would the limitation apply for only the last month of the 2026 tax year? Is the intent that it applies beginning with the 2027 tax year? If you want the limitation to apply to an entire tax year and subsequent tax years, you should include a date indicating that the limitation applies beginning with the specified tax year and continues to apply in subsequent tax years.
3. Sections 39-22-104 (1)(c) and 39-22-301 (1)(d)(I)(K), Colorado Revised Statutes, set the state income tax rate on individuals and corporations at 4.4%. Article X, Section 20 (4)(a) of the Colorado Constitution provides that the income tax rate may increase only by an affirmative vote of the people. Thus, under existing law, the income tax rate for individuals and corporations may not exceed 4.4%, unless otherwise provided by a vote of the people.
  - a. How does the proposed initiative change existing law?
  - b. What do the proponents believe will be accomplished by the proposed initiative?

- c. How would the proposed initiative interact with a measure in the same election to increase the income tax rate to more than 4.4%?
- d. If an income tax rate increase above 4.4% is approved by a vote of the people, and the proposed initiative is approved by the people, is the intent that the proposed initiative limit that voter-approved tax increase so that the income tax rate does not exceed 4.4%?
- e. Does the proposed initiative create an affirmative duty for the General Assembly to act?
- f. Is the General Assembly required to amend sections 39-22-104 (1)(c) and 39-22-301 (1)(d)(I)(K), Colorado Revised Statutes, to provide for a 4.4% income tax rate if the people vote to raise the rate above 4.4%?

## **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 designated representatives 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 follows:

There are no technical comments.