

# STATE OF COLORADO

## Colorado General Assembly

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### MEMORANDUM

**TO:** Martha Olson and Donald Anderson  
**FROM:** Legislative Council Staff and Office of Legislative Legal Services  
**DATE:** February 19, 2019  
**SUBJECT:** Proposed initiative measure 2019-2020 #25, concerning funding for public schools

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 2019-2020 #24 to #29. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memoranda for proposed initiatives 2019-2020 #24 and #26 to #29, except as necessary to fully understand the issues raised by the proposed initiative. Comments and questions addressed in those other memoranda may also be relevant, and those questions and comments are hereby incorporated by reference in this memorandum.

## Purposes

1. The major purposes of the proposed amendments to the Colorado constitution appear to be:
  - a. To create a more sustainable, fair, and adequate system for financing public schools to meet the needs of every student and prepare every student for success in career, college, and life;
  - b. To create the quality public education fund (fund) in the state treasury to receive all revenues collected through an income tax increment for public school funding and to allow the general assembly to annually appropriate money from the fund for purposes specified in law;
  - c. To create an exception to the single-rate state income tax for revenue that is dedicated to the funding of public schools;
  - d. To require the revenue from the income tax increase to be deposited in a dedicated public education fund; and
  - e. For purposes of school district property taxes only and without impacting the residential assessment rate that applies for other local government property taxes, to establish the 2019 residential assessment rate as permanent and reduce the current nonresidential assessment rate from 29% to 24%.
2. The major purposes of the proposed amendments to the Colorado Revised Statutes appear to be:
  - a. To express the goals of the initiative and the intention of the people that a more sustainable, fair, and adequate system for financing public schools is necessary to achieve the goals of the proposed initiative;
  - b. To implement the provisions of article IX, section 17 (4.5) of the Colorado constitution and to require annual appropriations from the fund;
  - c. To express the intention of the people that the general assembly enact a new public school finance law that substantially meets the requirements set forth in the proposed initiative;
  - d. To require appropriations from the fund for specific purposes until the enactment of a new school finance law that complies with the provisions of the proposed initiative;

- e. To require money appropriated from the fund to supplement, not replace, the level of general fund appropriations existing on the effective date of the initiative, plus annual inflation adjustments;
- f. To require each school district receiving money from the fund to make publicly available certain financial and student performance information;
- g. To require the review and study of a successor public school finance act within specific time frames;
- h. To reduce the income tax rate by .13% for individuals, trusts, and estates who have taxable income of \$50,000 or less;
- i. To increase income tax rates incrementally for individuals, trusts, and estates using four tax brackets starting at .37% for income above \$150,000 and increasing to 3.12% for income above \$400,000;
- j. To increase the corporate income tax rate by 1.37%; and
- k. To allow the revenue collected to be retained and spent as voter-approved revenue changes.

## **Substantive Comments and Questions**

The proposed initiative raises the following additional 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. Proposed article X, section 20 (8)(a) of the Colorado constitution allows multiple income tax rates if specific rate increases are approved by voters for the purpose of providing an income tax increment dedicated to the funding of pre-primary through secondary public schools. If the exception does not apply, then income must be taxed at one level. Proposed section 39-22-104 (1.7)(a) creates a credit equal to .13%, which has the effect of reducing the tax rate from 4.63% to 4.5%. Does this "credit" meet the exception to the one-rate requirement?
3. If under proposed article X, section 20 (8)(a) of the Colorado constitution, a rate decrease is allowable so long as there are specific increases for the described purposes, could the general assembly enact a de minimis increase to fund schools and then make a substantial rate reduction for some portion of taxpayers?

4. A "tax credit" is "an amount of money that is subtracted from taxes owed."<sup>1</sup> Section 39-22-104, C.R.S., establishes rates that are used to establish the taxes owed. Is the .13% adjustment really a tax credit? How can there be a credit that is established before the amount of taxes owed is calculated?
5. The language for the credit reads as follows: "an income tax credit shall be allowed against . . . the federal taxable income of such taxpayers: up to and including fifty thousand dollars a credit of thirteen one hundredths percent." This phrase seems incomplete; thirteen one-hundredths percent of what amount?
6. Does the credit reduce the amount of the income tax revenue that is deposited in the general fund or the amount of revenue that is deposited in the quality public education fund under proposed section 39-22-623 (1)(b)?
7. If the proponent's goal is to reduce the income tax rate for individuals whose income is \$50,000 or less, then would it be easier to understand if it were drafted as a rate reduction instead of a credit?

## **Technical Comments**

There are no additional technical comments.

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<sup>1</sup> *Merriam-Webster Dictionary Online*, "tax credit," <https://www.merriam-webster.com/dictionary/tax%20credit> (accessed on February 13, 2019).