

# 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:** March 28, 2019

**SUBJECT:** Proposed initiative measure 2019-2020 #55, 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.

Earlier versions of these proposed initiatives, proposed initiatives #24 to #29, were the subject of memoranda dated February 19, 2019, which were discussed at a public meeting on February 21, 2019. The substantive and technical comments and questions raised in this memorandum will not include comments and questions that were addressed at the earlier meetings, except as necessary to fully understand the issues raised by the revised proposed initiative. However, questions and comments that are not restated here may continue to be relevant and are hereby incorporated by reference into this memorandum.

This initiative was submitted with a series of initiatives including proposed initiatives 2019-2020 #55 to #57. The comments and questions raised in this memorandum will not include comments and questions addressed in the memoranda for proposed initiatives 2019-2020 #56 and #57, 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 approved by voters at the 2019 general election and to allow the general assembly to annually appropriate money from the fund for purposes specified in law;
  - c. To require money appropriated from the fund to supplement, not replace, the level of general fund appropriations for pre-primary, primary, and secondary public education existing on the effective date of the initiative; and
  - d. To create an exception to the single-rate state income tax for revenue that is dedicated to the funding of public schools.
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 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;

- c. 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;
- d. To require money appropriated from the fund to supplement, not replace, the level of general fund appropriations for public education funding existing on the effective date of the initiative, with an annual inflation adjustment;
- e. To require each school district receiving money from the fund to make publicly available certain financial and student performance information;
- f. To require the review and study of a successor public school finance act within specific time frames;
- g. 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;
- h. To increase the corporate income tax rate by 1.37%; and
- i. To allow the revenue collected to be retained and spent as voter-approved revenue changes.

## **Substantive Comments and Questions**

The substance of 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. It appears that the language in the education provisions in proposed article IX, section 17 (4.5) and in proposed section 22-55-109 is identical in proposed initiatives #55 to #57. Is this correct? In addition, except for some minor technical and substantive changes, it appears that the language in the education provisions in proposed article IX, section 17 (4.5) and in proposed section 22-55-109 of initiatives #55 to #57 is nearly identical to the education provisions contained in proposed initiative #24. Is this correct? If so, would your comments at

- the review and comment hearing on February 21, 2019, in response to questions concerning the education provisions in proposed initiative #24 apply to proposed initiatives #55 to #57?
3. Proposed article IX, section 17 (4.5)(b) references the "2019 general election". However, proposed section 39-22-623 refers to money credited to the fund that is approved by voters at the "statewide election in November 2019". It should be described as the "statewide election" in both sections.
  4. Proposed article IX, section 17 (4.5)(d) states that money from the fund shall not supplant general fund appropriations "for pre-primary, primary, and secondary public education" existing on the effective date of the initiative. However, proposed section 22-55-109 (5) states that money from the fund shall not supplant general fund appropriations for "public education funding" existing on the effective date of the initiative, plus annual "inflation adjustments".
    - a. Does general fund appropriations for "pre-primary, primary, and secondary public education", as used in the proposed constitutional provision, have the same meaning as general fund appropriations for "public education funding", as used in the statutory provision?
    - b. Is there a specific reason the proponents used different language to describe the maintenance of effort provision in these two sections of the proposed initiative?
    - c. Did you remove the automatic inflation adjuster from the proposed constitutional provision so that the general assembly would have flexibility to repeal that provision from statute?
  5. It appears that the general assembly could require that additional money be transferred from the general fund or any other fund into the quality public education fund. Is that your intention?
  6. The proposed section 22-55-109 (2) refers to the 2018 general election. Should it refer to the statewide election in 2019?

## **Technical Comments**

The following comments address additional 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. It is standard drafting practice to use the singular "money" instead of "moneys".
2. It is standard drafting practice to separate coordinate adjectives with a comma.
3. It is standard drafting practice to refer to a fiscal year as "2020-21," not "2020-2021."
4. Please capitalize the first letter of the first word of each entry of an enumeration paragraphed after a colon.