

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Carol Hedges and Steve Briggs

FROM: Legislative Council Staff and Office of Legislative Legal Services

DATE: November 16, 2018

SUBJECT: Proposed initiative measure 2019-2020 #7, concerning State Fiscal Policy

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 #3 to #21. 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 #3 to #21, except as necessary to fully understand the issues raised by the revised 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

The major purposes of the proposed amendment to the Colorado Constitution appear to be:

1. To repeal all of article X, section 20 of the Colorado Constitution, which is commonly referred to as "TABOR";
2. To repeal the requirement, commonly referred to as the "Gallagher Amendment", that the General Assembly adjust the property tax residential assessment rate in accordance with a formula designed to maintain the percentage of the aggregate statewide valuation that is attributable to residential property in the state;
3. To repeal the requirement that the nonresidential property tax assessment rate is 29%; and
4. To repeal all funding requirements for public school preschool through twelfth grade education that were included in an initiative commonly referred to as "Amendment 23".

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. If Amendment 23 is repealed, is there any specific funding requirement for per pupil funding for public education from preschool through the twelfth grade or for all categorical programs?
3. The state education fund is created in article IX, section 17 (3) of the Colorado Constitution and certain revenues from the state income tax are required to be deposited in the fund. Section 22-55-103 (1), C.R.S., has duplicate language creating the state education fund. If the Gallagher Amendment is repealed, would the state education fund still exist?
 - a. If so, is it your intent that the revenue from 1/3 of 1% of taxable income continue to be deposited in the fund under section 22-55-103 (1), C.R.S.?

- b. If not, is it your intent that this revenue would instead be deposited in the general fund in accordance with section 24-75-201 (1), C.R.S.?
4. The state education fund is often referred to in the Colorado Revised Statutes as "the state education fund created in section 17 (4) of article IX of the state constitution." If a statutory provision that requires a transfer or appropriation of money from the state education fund uses this reference, then is the transfer or appropriation still required if Amendment 23 is repealed?

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 constitutional and statutory section being amended, repealed, or added is preceded by a separate amending clause explaining how the law is being changed in the following standard format, for example:

SECTION 1. In the constitution of the state of Colorado, **repeal** section 20 of article X.

SECTION 2. In the constitution of the state of Colorado, **amend** section 3 (1)(b) of article X as follows:

SECTION 3. In the constitution of the state of Colorado, **repeal** section 17 of article IX.