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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 #17, 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 16. 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 16, except as necessary to fully understand the issues raised by this 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 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 the Department of Education, Department of Health Care Policy and Financing, and Department of Corrections not be reduced due to any decrease in state revenue from reducing the state income tax rate from 4.40% to 4.25%.

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 the Department of Education, Department of Health Care Policy and Financing, and Department of Corrections not be reduced due to any decrease in state revenue from reducing the state income tax rate from 4.40% to 4.25%.
 - a. What does it mean to "not reduce" a department? Does it mean that the department's appropriations are not reduced? That other funding to the department is not reduced? That the number of employees employed by a department is not reduced? That the department's functions are not reduced?
 - b. Do the proponents intend that appropriations to the Department of Education, Department of Health Care Policy and Financing, and Department of Corrections should never decrease? What about other department funding? What about the number of employees for these departments? What about the departments' functions?
 - c. Would the proposed initiative allow appropriations to, other funding for, the number of employees of, or functions of the Department of Education, Department of Health Care Policy and Financing, and Department of Corrections to decrease under certain circumstances?

- d. If so, how would those circumstances be determined?
 - e. How would it be determined that a reduction to the Department of Education, Department of Health Care Policy and Financing, or Department of Corrections was the result of a decrease in state revenue from reducing the state income tax rate from 4.40% to 4.25% instead of some other reason?
 - f. 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 not reduce the Department of Education, Department of Health Care Policy and Financing, and Department of Corrections?
3. Proposed initiatives 2023-2024 ##15 and 16, 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 16 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 16 be withdrawn?
 - d. If the proponents do not intend that proposed initiatives 2023-24 ##15 and 16 be withdrawn, what is the intent of the proponents in also proposing proposed initiative #17?

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,