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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: July 22, 2025

Subject: Proposed initiative measure 2025-2026 #120, concerning a reduction in general fund appropriations and the 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 and questions 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 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 Colorado Legislative Council 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

Purposes for Proposed Initiative 2025-2026 #120

The major purposes of the proposed amendments to the Colorado Revised Statutes appear to be:

1. To reduce general fund appropriations to state departments that receive appropriations from the general fund by at least three percent for the state fiscal year beginning on July 1, 2027; and
2. To permanently reduce the state income tax rate in an amount equal to the reduction in appropriations to state departments.

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 the proposed initiative 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. [Exclude the comment if a later effective date is stated in the proposed initiative.]

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, the designated representatives should include the desired effective date that is not earlier than the default effective date to comply with this constitutional requirement.

3. The following comments and questions apply to section 24-75-233 (1), C.R.S., of the proposed initiative:
 - a. Subsection (1) provides that “[f]or the fiscal year beginning July 1, 2027, the General Assembly shall reduce appropriations from the general fund to every state department that received funding from the general fund by minimum of three percent.”

- i. Does the requirement to reduce appropriations from the general fund by at least three percent apply only to appropriations made for the state fiscal year beginning on July 1, 2027? Is the minimum three percent reduction a one-time reduction?
- ii. What is the baseline for calculating the three percent reduction in general fund appropriations?
- iii. What is the order of operations for the General Assembly to reduce appropriations from the general fund?
- iv. If the reduction is intended to be made from the budget for the state fiscal year beginning on July 1, 2027, when will the General Assembly effectuate this reduction? As part of the “Annual Appropriations Act” (Long Bill), or in a separate piece of legislation after the act has already been adopted and signed into law?
- v. If the amount of general fund appropriations for all state departments is reduced by three percent during the 2027 regular legislative session and the savings are returned to taxpayers, how will the General Assembly address mid-year adjustments and supplemental appropriations?
- vi. Because some general fund spending is caseload-driven, if expenses for a given state department grow by more than the three percent cut, the actual spending in that state department still increases. Would this be allowed under the measure? That is, does the measure institute a hard cap on spending, or does it only require an across the board cut at the beginning of a single fiscal year to determine a single refund amount?
- vii. Some caseload-driven programs have authority to overexpend their appropriation because the total caseload, and therefore the total cost, is not evident until the end of the fiscal year. How would overexpenditure authority work with the proposed initiative’s requirement to reduce appropriations of state departments by at least three percent?
- viii. Article IX, Section 17 of the Colorado constitution requires an annual increase in the base per-pupil funding amount for school finance. What happens if the reduction to the amount of general

fund appropriated to the Colorado Department of Education reduces Colorado Department of Education funding below constitutional requirements?

- ix. Does the reduction of at least three percent of appropriations to state departments lower the maximum amount of money that may be spent by the state in the state fiscal year beginning on July 1, 2028, for purposes of Article X, Section 20 of the Colorado constitution (the Taxpayer's Bill of Rights)?
- x. Does the reduction in general fund appropriations in the state fiscal year beginning on July 1, 2027, qualify as a "limit[] on district revenue, spending, and debt" that may only "be weakened" by future voter approval, as required by Article X, Section 20 (1) of the Colorado constitution?
- xi. What entities qualify as "state departments"? Do "state departments" include only executive branch departments? Are the offices of the governor a "state department"?
- xii. May the General Assembly reduce the general fund appropriation for one state department by less than three percent and another state department by more than three percent if the aggregate general fund appropriation reduction is at least three percent across all applicable state departments?
- xiii. If the General Assembly passes legislation that reduces general fund appropriations to state departments by at least three percent, and the governor vetoes that legislation, has the General Assembly's duty to reduce appropriations been satisfied?

3. The following comments and questions apply to section 24-75-233 (2), C.R.S., of the proposed initiative:

- a. Subsection (2) provides that "[a]ll savings resulting from the reduction in appropriation required by this section shall be returned to the taxpayers by permanently reducing the state income tax rate."
 - i. Is it the proponents' intent that the state income tax rate increase after being reduced to reflect the savings from the general fund appropriation reduction?

- ii. If the reduction in income tax rate is intended to refund a one-time reduction in appropriations, how does that work with a permanent income tax rate reduction? Will appropriations be allowed to increase but the tax rate is not allowed to increase?
- iii. During which income tax year is the reduction in the state income tax rate first meant to apply?
- iv. How will there be enough information about taxable income in a tax year to determine the rate at which the income tax rate should decrease for that tax year?
- v. What happens if lowering the state income tax rate decreases state revenue in an amount greater than the amount that spending is reduced?
- vi. What happens if lowering the state income tax rate decreases state revenue in an amount less than the amount that spending is reduced?
- vii. Does the income tax rate reduction apply to individuals, corporations, or both?

Technical Comments

The following comments address technical issues raised by the form of the proposed initiatives. These comments will be read aloud at the public hearing only if the designated representatives so request. You will have the opportunity to ask questions about these comments at the review and comment hearing. Please consider revising the proposed initiative as follows:

1. It is unnecessary to initial-capitalize “general assembly.”
2. In subsection (1) of the proposed initiative, the phrase “by minimum of three percent” appears to be missing the article “a” before “minimum.”