

# STATE OF COLORADO

## Colorado General Assembly

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## MEMORANDUM

**TO:** Jon Caldara and Vanessa Rutledge  
**FROM:** Legislative Council Staff and Office of Legislative Legal Services  
**DATE:** February 16, 2024  
**SUBJECT:** Proposed initiative measure 2023-2024 #177, concerning a State Income Tax Rate Reduction

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 #176 and 178 to 181. 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 #176 and 178 to 181, 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. Only new comments and questions are included in this memorandum.

## Purposes

The major purpose of the proposed amendment to the **Colorado Revised Statutes** appears to be:

1. To reduce both the individual and the corporate state income tax rates from 4.40% to 4.35%.

## Substantive Comments and Questions

The substance of the proposed initiative raises the following new comments and questions:

1. The proposed initiative includes a legislative declaration. It appears, based on the amending clause, that the proponents' intent is that the legislative declaration is meant to be statutory (i.e., printed in statute) and added to section 39-22-104. Is this accurate or do the proponents instead intend that the legislative declaration be non-statutory (i.e., included in the initiative text but not printed in statute)? Please see the Technical Comments below related to the formatting of statutory versus non-statutory legislative declarations.
2. Section 39-22-104 is an existing statute that already includes subsection (1) and (2), which raises the following questions:
  - a. Is it the proponents' intent to add the legislative declaration language to those existing subsections? If so, the current language of those subsections should be shown in regular text with the new language inserted where the proponents want it to be inserted.
  - b. Is it the proponents' intent to replace the current language of section 39-22-104 (1) (and (2))? If so, the amending clause should be changed to read: In Colorado Revised Statutes, 39-22-104, **repeal and reenact, with amendments**, (1) and (2) as follows:". Alternatively, the amending clause could be changed by replacing "**add:**" with "**amend** (1) and (2) as follows:" and then showing the existing language of subsections (1) and (2) in ~~strike type~~ between each subsection number and the next text of the proposed initiative.

## 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. The proposed initiative includes a legislative declaration. Legislative declarations can be statutory (i.e., printed in statute) or non-statutory (i.e., included in the initiative text but not printed in statute) and each type requires different formatting.
  - a. If the legislative declaration is meant to be statutory, the proponents should consider the following changes:
    - i. Because **Section 1** and **Section 2** of the proposed initiative amend section 39-22-104, these two sections should be combined into one amending clause and initiative section.
    - ii. Because both subsections (1) and (2) in the legislative declaration of the proposed initiative constitute the legislative declaration, the proponents should consider re-formatting the legislative declarations as follows, for clarity:

"(1) THE PEOPLE FIND AND DECLARE THAT:

(a) BECAUSE STATE LAW REQUIRES THAT EXCESS REVENUES BE REFUNDED, BOTH THE STATE OF COLORADO AND THE TAXPAYERS INCUR COSTS OF COMPLIANCE;

(b) TO AVOID THESE COSTS AND TO SAVE COLORADO TAXPAYERS FROM THE COSTS OF PREPARING AND FILING UNNECESSARY TAX RETURNS, THE PEOPLE INTEND TO LOWER THE INCOME TAX RATES FOR ALL TAXPAYERS; AND

(c) IT IS IN THE BEST INTEREST OF THE PEOPLE OF THE STATE OF COLORADO TO LOWER THE INCOME TAX RATES FOR ALL TAXPAYERS."
    - iii. Subsections (1) and (2) already exist in the current version of section 39-22-104, C.R.S. With the addition of a statutory legislative declaration in the proposed initiative that adds at least

a new subsection (1), the existing subsections of section 39-22-104 should be renumbered accordingly. This would also require the amending clause to reflect the amendment of the entire section 39-22-104, and require each provision of that section that begins with a subsection number (e.g., "4") to be shown in regular type with the current subsection number shown in ~~strike type~~ and the new subsection number inserted after that. In addition, conforming amendments to both section 39-22-104 and other statutory sections would likely be required to reflect the changed subsection numbers.

- b. If the legislative declaration is meant to be non-statutory, the language should be written in normal typeface instead of SMALL CAPITAL LETTERS.