

# STATE OF COLORADO

## 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:** March 24, 2023

**SUBJECT:** Proposed initiative measure 2023-24 #22, concerning a temporary sales 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.

### Purposes

The major purpose of the proposed amendment to the **Colorado Revised Statutes** appears to be to temporarily reduce the state's sales and use tax rate to 2.89 percent.

## **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 reduces the sales and use tax rate from 2.90 percent to 2.89 percent for the period beginning January 1, 2025, through December 31, 2026. Is that the intent of the proponents?
3. Does changing the tax rate, effective January 1, 2025, allow adequate time for retailers and the Department of Revenue to implement the required changes if the initiative passes in the 2024 general election?
4. The proposed statutory language in section 39-26-106 (1)(a)(III) states that the tax shall be imposed on "the amount of the sale to be computed in accordance with schedules or systems approved by the executive director of the department of revenue." What does "schedules or systems" refer to and when will these schedules or systems be computed?
5. Why did the proponents choose a "repeal and reenact, with amendments" instruction instead of an "amend" instruction for the proposed changes?
6. According to recent forecasts from state legislative and executive branch economists, state revenue is expected to exceed the state's constitutional fiscal year spending limit (TABOR limit) in FY 2024-25. The proposed initiative would reduce the amount of excess state revenue, thereby reducing the state obligation for refunds to taxpayers under TABOR. Is this the proponents' intent?
7. A forecast of state revenue subject to TABOR is not available beyond FY 2024-25. If state revenue subject to TABOR is under the TABOR limit in FY 2025-26 and FY 2026-27 the measure would impact general fund revenue otherwise available to spend or save. Is this the proponents' intent?
8. Have the proponents considered the need for an appropriation to the Department of Revenue for reprogramming and other administrative costs?
9. Have the proponents considered that the proposed initiative will reduce revenue retained within a tax increment district to finance projects utilizing state sales tax revenue?

## 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 command to "repeal and reenact, with amendments," means that the indicated statutory text will be repealed and then added back into the section as new language. The proponents also have the option of using an "amend" instruction for the proposed changes.
  - a. If an "amend" instruction is used, it is standard drafting practice to use small capital letters to show the language being added to and stricken type, which appears as ~~stricken type~~, to show language being removed from the Colorado Revised Statutes.
2. In the substantive text of section 39-26-105 (1)(a)(I)(A.5), the first letter of the word "section" should not be capitalized in two places where it is capitalized.
3. Lines of the proposed initiative that begin with the section number of a section of proposed initiative or a C.R.S. section number and headnote should be indented.