

# 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:** March 20, 2024  
**SUBJECT:** Proposed initiative measure 2023-2024 #252, concerning voter-approved revenue changes

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.

An earlier version of this proposed initiative, proposed initiative 2023-2024 #184, was the subject of a memorandum dated January 20, 2024. Proposed initiative 2023-2024 #184 was discussed at a public meeting on February 22, 2024. The substantive and technical comments and questions raised in this memorandum will not include comments and questions that were addressed at the earlier meeting, except as necessary to fully understand the issues raised by the revised proposed initiative. However, the prior comments and questions that are not restated here continue to be relevant and 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 limit the effective period of any voter-approved revenue change pursuant to section 20 (7)(d) of article X of the Colorado constitution "to a term of four years, unless approved by a subsequent vote of the people for a subsequent four-year term"; and
2. To declare that "the original intent of The Taxpayer's Bill of Rights was and [is] to limit the term of voter approval of a tax revenue change to four years" and that voters "find and declare that the provisions of this Article [X] Section 20 should be amended to clarify this intent".

## Substantive Comments and Questions

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

1. Based on the lack of an amending clause and the use of regular type rather than small caps it appears that you intend for the new section 1 of the proposed initiative to appear in the proposed initiative but not be added as new language in section 20 of article X of the state constitution.

Is that correct? If not, then section 1 must be preceded by an amending clause indicating where it should be placed in section 20 of article X of the state constitution and the font of its text, excluding the heading, must be changed to small caps.

2. The term "tax revenue change" is used throughout the new section 1. However, section 20 (7)(d) of article X of the state constitution allows voters to approve a "revenue change as an offset." Is a "tax revenue change" intended to mean something different than a "revenue change" as that term is used in section 20 (7)(d) of article X of the state constitution? If not, consider changing the language in section 1 for consistency and to avoid confusion. Additionally, consider whether section 1 should specifically reference section 20 (7)(d) of article X, rather than section 20 generally, to more fully and accurately inform voters of the intended scope and effect of the proposed initiative.
3. Consider whether it is necessary or appropriate to declare in 2024 what the intent of the voters was in adopting section 20 of article X in 1992. Would it be more reasonable, accurate, and legally sufficient to instead declare that the

voters now intend for there to be a four-year limit on any future voter approved revenue changes pursuant to section 20 (7)(d) of article X?

4. With respect to section 2 of the proposed initiative, is the phrase "revenue change approved by the people" intended to be limited to the approval by the voters of a "district", as defined in section 20 (2)(b) of article X of the state constitution, or the retention of revenue above the district's fiscal year spending limit? If not, what else does the phrase include?

## **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 following should be corrected in section 1 of the proposed initiative:
  - a. "People" should not be capitalized in the first sentence;
  - b. "The Taxpayer's Bill of Rights" should be followed by or changed to the proper legal citation of section 20 of article X of the Colorado constitution;
  - c. There appears to be a missing word in the phrase "was and to";
  - d. The reference to "this Article V Section 20" should be changed to "section 20 of article X of the Colorado constitution".
2. The section number and headnote for section 20 of article X of the state constitution is missing before subsection (7)(d) in section 2 of the proposed initiative. The internal headnote after subsection (7) is also missing from the proposed initiative. The following should be added before subsection (7)(d):

**Section 20. The Taxpayer's Bill of Rights. (7) Spending limits. (d) If revenue . . .**