

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Amber Drevon and Charles Dukes

FROM: Legislative Council Staff and Office of Legislative Legal Services

DATE: January 2, 2020

SUBJECT: Proposed initiative measure 2019-2020 #170, concerning the Colorado out-of-school learning opportunities program

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 the Colorado 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 2019-2020 #168-169 and #171. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memoranda for proposed initiatives 2019-2020 #168, #169, and #171, except as necessary to fully understand the issues raised by the 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 purposes of the proposed amendments to the Colorado Revised Statutes appear to be:

1. To create the "Colorado Out-of-School Learning Opportunities Program" (program) within a newly established Colorado Out-of-School Learning Opportunities Agency (agency) within the Colorado Department of Education;
2. To establish a board of directors for the agency;
3. To specify the powers and duties of the agency to establish and oversee the program, including creating and developing criteria for the program;
4. To create or contract with a nonprofit organization doing business in Colorado to administer the program and to establish the duties of the administering nonprofit;
5. To establish parent-directed individual learning accounts (accounts) for eligible Colorado students under eighteen years of age to be used to pay certified providers for out-of-school learning opportunities, which opportunities provide supplemental educational or developmental support to eligible students outside of normal school operations;
6. To create and develop criteria for allowable uses of the money in the accounts, which uses include, in part, tutoring, targeted support for youth with special needs and learning disabilities, in-depth programs that teach youth new skills in the context of outdoor activities, and music and arts education;
7. To create and develop criteria for certifying providers of out-of-school learning opportunities under the program;
8. To create a competitive grant program for nonprofit providers to expand the capacity of free or low-cost programs that provide out-of-school learning opportunities in order to serve more students;
9. To cap all corporate net operating loss deductions for income tax years commencing on or after January 1, 2021, but before January 1, 2036, so that net operating loss deductions may not be taken for any net operating losses over \$250,000;

10. To require the state treasurer to transfer any revenue increase that results from the capping of the corporate net operating loss deduction to the Out-Of-School Learning Opportunities Fund; and
11. To specify that the revenue increase that results from the capping of the corporate net operating loss deduction is a voter approved revenue change that is exempt from all revenue, spending and other limitations specified in TABOR.

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. What will be the effective date of the proposed initiative?
3. The language of proposed article 86.1 of title 22 appears to be identical to the language of proposed article 86.1 of title 22 in initiative 2019-2020 #168. Is this correct?
4. Is it the proponents' intent that any corporate net operating losses over \$250,000 in each income tax year is not deductible for income tax years commencing on or after January 1, 2021, but prior to January 1, 2036?
5. The proponents do not specify what happens with losses from prior tax years (presumably from tax years before January 1, 2021). Are those losses allowed to be carried forward as without the cap?

Technical Comments

There are no additional technical comments.