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MEMORANDUM

To: Suzanne Taheri and Michael Fields

From: Legislative Council Staff and Office of Legislative Legal Services

Date: April 4, 2025

Subject: Proposed initiative measures 2025-2026 #64 and #65, concerning the 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.

Proposed initiatives 2025-2026 #64 and #65 were submitted by the same designated representatives as a series of proposed initiatives. The comments and questions raised in this memorandum address proposed initiatives 2025-2026 #64 and #65.

Earlier versions of these proposed initiatives, proposed initiatives 2025-2026 #20 and #21 and proposed initiatives 2025-2026 #47 and #48, submitted by the same designated

representatives, were the subject of memoranda dated February 5, 2025 and March 19, 2025 and were discussed at public meetings on February 7, 2025 and March 21, 2025. The comments and questions raised in this memorandum do not include comments and questions that were addressed in earlier memoranda or at earlier meetings, except as necessary to fully understand the issues raised by the revised proposed initiatives. Prior comments and questions that are not restated in this memorandum continue to be relevant and are considered part of this memorandum.

Purposes

Purposes for Proposed Initiative 2025-2026 #64

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

1. To reduce both the individual and the corporate state income tax rates from 4.40% to 4.35% for the 2027 tax year and from 4.35% to 4.20% for the 2028 tax year and every tax year thereafter.
2. To require that any reduction in state revenue resulting from the first full fiscal year of the income tax rate reductions reduce funding for the department of revenue and the department of personnel.

Purposes for Proposed Initiative 2025-2026 #65

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

1. To reduce both the individual and the corporate state income tax rates from 4.40% to 4.20% beginning with the 2027 tax year.
2. To specify that any reduction in state revenue resulting from the first full fiscal year of the income tax rate reductions shall not reduce funding for the department of education or the department of health care policy and financing.

Substantive Comments and Questions

The substance of the proposed initiatives 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 each of the proposed initiatives?
2. Sections 39-22-104 (1.7)(d) and 39-22-301 (1)(d)(I)(L), C.R.S., of proposed initiative #64, provide that for the “first full fiscal year following January 1, 2027” the funding for the Department of Revenue and the Department of Personnel will be decreased. The first full fiscal year following January 1, 2027, begins on July 1, 2027, and ends on June 30, 2028. Do the proponents mean to reduce funding to the Department of Revenue and the Department of Personnel only during the 2027-28 fiscal year?
3. Sections 39-22-104 (1.7)(d) and 39-22-301 (1)(d)(I)(L), C.R.S., of proposed initiative #64, provide that “any reduction in state revenue attributed to” the income tax deduction in the proposed initiatives “shall reduce funding for the department of revenue” and “the department of personnel” in state fiscal year 2027-28. The proposed initiatives do not state by how much the funding shall be reduced or if the amount of the revenue reduction is equal to the amount of the funding reduction. By what measure should funding to the Department of Revenue and the Department of Personnel be reduced during the 2027-28 fiscal year?
4. Sections 39-22-104 (1.7)(d) and 39-22-301 (1)(d)(I)(L), C.R.S., of proposed initiative #65, provide that “[a]ny reduction in state revenue attributed to the new tax rate enacted in this section shall not reduce for the department of education...”. Do the proponents intend to use the term “funding” between “reduce” and “for” and “the” after “for”?
5. Sections 39-22-104 (1.7)(d) and 39-22-301 (1)(d)(I)(L), C.R.S., of proposed initiative #64, provide that “voter approval of sections 1 and 2 of this measure shall reduce funding for the” Departments of Revenue and Personnel. Section 1 of the proposed measure contains the changes to section 39-22-104, C.R.S., and section 2 contains the changes to section 39-22-301, C.R.S. However, references to “section 1” and “section 2” are for organizational purposes of the proposed initiative and will not become part of the Colorado Revised Statutes. Thus, it will be unclear what these section references mean once located in the Colorado Revised Statutes. Would the proponents consider replacing this language with that from proposed initiative #65, which states: “Any reduction in state revenue *attributed to the new tax rate enacted in this section*” (emphasis added). Here, “section” refers to the part of the Colorado Revised Statutes where the new

language would be implemented, and not to the organizational structure of the proposed initiative.

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. In proposed initiative #64, there are two colons at the end of 39-22-301 (1)(d)(I) introductory portion, C.R.S. Please delete the second colon.