

# STATE OF COLORADO

## Colorado General Assembly

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### MEMORANDUM

February 24, 2003

**TO:** Douglas Bruce and Jeffrey Wright

**FROM:** Legislative Council Staff and Office of Legislative Legal Services

**SUBJECT:** Proposed initiative measure 2003-2004 #31, concerning Tax Cuts - Amend TABOR

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 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.

There are two earlier versions of this initiative, proposals 2003-2004 #2, #5, and #10. Proposal 2003-2004 #2 was the subject of a memorandum dated October 17, 2002, and it was discussed at a hearing on October 22, 2002. Proposal 2003-2004 #5 was the subject of a memorandum dated October 28, 2002, and it was discussed at a hearing on November 1, 2002. Proposal 2003-2004 #24 was the subject of a memorandum dated January 10, 2003, and it was discussed at a hearing on January 16, 2003. The comments and questions raised in this memorandum will be limited so as not to duplicate comments and questions that were addressed at the earlier hearings, unless it is necessary to fully address the issues in the revised measure. However, the comments and questions that have not been addressed by changes in the proposal continue to be relevant and are hereby incorporated by reference in this memorandum.



## Purposes

The major purposes of the proposed amendment appear to be:

1. To amend section 20 of article X of the Colorado constitution by adding a new paragraph (d) to subsection (8).
2. To provide a tax cut of \$25 for 2005 taxes, that shall be increased by \$25 each year thereafter, for each of the following:
  - a. Utility and television account customer tax and franchise charge;
  - b. Vehicle sales, use, and ownership tax, and real estate transfer tax, on each \$25,000 of taxable value, and fraction thereof;
  - c. Yearly income tax paid in 2006 and each year thereafter on each \$25,000 of state taxable income, and fraction thereof, up to \$100,000;
  - d. Occupation tax; and
  - e. Yearly property tax total levied by each district in 2006 and each year thereafter.
3. To specify the following exceptions:
  - a. In November of even-numbered years, district voters may lower or cancel one or more future tax cuts for the next one or two years only. In November 2005, district voters may lower or cancel the 2005 income and property tax cuts.
  - b. If real property tax would be a majority of their next year's cash revenue after excluding gifts, federal funds, bond proceeds, and that year's added property tax cut, districts may approve adding \$5 as that year's real property tax cut.
  - c. Districts may approve a delay only in adding that part of their next year's tax cuts which would result in that year's cash revenue from district taxes and other districts growing less than current year inflation. Until fully restored, each delayed part shall be added back to the tax cuts to the extent such revenue growth in each later year exceeds inflation in its prior year.
  - d. On each tax bill, districts may offer each taxpayer a choice to refuse the tax cut on that tax bill.
4. To specify the following enforcement provisions:
  - a. That lowering or canceling the tax cuts is a tax increase;

- b. That districts with any petition process shall have exception (I) ballot issues by initiative petition only, adapting state signature requirements and filing deadlines;
- c. That violation of revenue limits in any approved exception (II) or (III) shall void that approval, and districts shall refund to district taxpayers, within 120 days after the year ends, twice the tax cut amount illegally withheld by that invalid approval;
- d. That multiple-year tax cut totals shall continue using exception (I) and (II) amounts, but only for years properly approved;
- e. That exceptions shall be in whole dollars, are not gifts, and shall not reduce the tax cuts after the tax cuts take effect;
- f. That the tax cuts shall apply to each district tax on each tax bill, and shall be in addition to any other tax cut or revenue reduction or refund;
- g. That the tax cuts shall not lower the minimum yearly revenue needed to pay bonds issued before 2005; and
- h. That the state shall audit itself and each local district yearly for full compliance, and enforce strictly the tax cuts and exceptions.

### **Comments and Questions**

The form and substance of the proposed initiative raise the following comments and questions:

#### **Substantive questions:**

1. The second sentence of exception (III) was changed to read as follows: "Until fully restored, each delayed part shall be added back to the tax cuts to the extent such revenue growth in each later year exceeds inflation in its prior year." This new language prompts the following questions:
  - a. The phrase "until fully restored" was added to the beginning of the sentence. What does this phrase mean? Does the addition of this phrase change the meaning of exception (III)?
  - b. The phrase "any future year" was changed to "each later year". Does this change the meaning of exception (III)?
2. The phrase "on that tax bill" was added to the end of exception (IV). Was the intention of the addition of this phrase to clarify that a district may not offer a taxpayer a choice to refuse a future tax cut? Does this addition change the meaning of exception (IV)?