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Colorado General Assembly

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MEMORANDUM

TO: Martha Olson and Donald Anderson
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: January 2, 2018
SUBJECT: Proposed initiative measure 2017-2018 #99, concerning funding for public schools

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.

Earlier versions of this proposed initiative, proposed initiatives 2017-2018 #72 to #79, were the subject of memoranda dated November 17, 2017, which were discussed at a public meeting on November 21, 2017; and proposed initiatives 2017-2018 #86 to #93 were the subject of memoranda dated December 17, 2017, which were discussed at a public meeting on December 21, 2017. The substantive and technical comments and questions raised in this memorandum will not include comments and questions that were addressed at the earlier meetings, 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 may continue to be relevant and are hereby incorporated by reference in this memorandum.

This initiative was submitted with a series of initiatives, including proposed initiatives 2017-2018 #98 to #101. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memoranda for proposed initiatives 2017-2018 #98, #100, and #101, except as necessary to fully understand the issues raised by the revised 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

1. The major purposes of the proposed amendments to the Colorado Constitution appear to be:
 - a. To create a more sustainable, fair, and adequate system for school finance to prepare every student for success in career, college, and life;
 - b. To create the quality public education fund (fund) in the state treasury to receive all revenues collected through an income tax increment for public school funding;
 - c. To require the General Assembly to annually appropriate money from the fund for purposes specified in law to improve, support, and enhance the quality of pre-primary, primary, and secondary public school educational programs, resources, and opportunities on an equitable basis for the benefit of students statewide;
 - d. To use money appropriated from the fund to supplement, not supplant, the level of general fund appropriations existing on the effective date of the initiative; and
 - e. To create an exception to TABOR to allow taxable net income of individuals, trusts, estates, and corporations to be taxed at multiple rates to provide a tax increment dedicated to the funding of pre-primary through secondary public schools.
2. The major purposes of the proposed amendments to the Colorado Revised Statutes appear to be:
 - a. To express the intention of the people that a more sustainable, fair, and adequate system for school finance is necessary to achieve the goals specified in the proposed initiative;

- b. To determine the purpose of the fund, to implement the provisions creating the fund in the Colorado Constitution, and to require annual appropriations from the fund;
- c. To express the intention of the people that the General Assembly enact a new public school finance law that substantially meets the requirements set forth in the proposed initiative;
- d. To establish the purposes for which the money in the fund must be appropriated and spent until such time as a new public school finance law has been enacted and has taken effect;
- e. To fully fund the current school finance formula without applying a reduction in funding through the budget stabilization factor, formerly known as the negative factor;
- f. To require all money appropriated from the fund to be expended to support public schools, except as required by an individualized education program for an individual with a disability;
- g. To use money appropriated from the fund to supplement, not supplant, the level of general fund appropriations existing on the effective date of the initiative, plus annual inflation adjustments;
- h. To require each school district receiving money from the fund to make publicly available information concerning its mission and vision, current budget, audit, uniform improvement plan, and student achievement scores;
- i. To require the Colorado Department of Education within five years of implementation of the fund to commission a study on how money from the fund was spent as well as other reporting regarding the impact of the funding;
- j. To require the General Assembly to review a successor public school finance act within specific time frames;
- k. To increase income taxes imposed on certain individuals, estates, and trusts by creating an income tax increment for public school funding dedicated to the fund at graduated rates specified in the proposed initiative based on the federal taxable income of the taxpayer;
- l. To increase income taxes imposed on corporations by creating an income tax increment for public school funding dedicated to the fund at a rate specified in the proposed initiative;

- m. To require that revenue generated from the tax increment for public school funding be credited to the fund; and
- n. To authorize the state to retain and spend all revenue from the tax increment for public school funding as a voter-approved revenue change.

Substantive Comments and Questions

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

1. What does it mean to fully fund a reduction?
2. The 2017-18 budget year is the last year that there is a budget stabilization factor established in law. Does the proposed initiative require money from the fund to be appropriated and spent for total program funding, as calculated pursuant to section 22-54-104 (2), Colorado Revised Statutes, so that the budget stabilization factor pursuant to section 22-54-104 (5)(g), Colorado Revised Statutes, will not be used in the future?

Technical Comments

No new technical comments or questions were raised by this proposed initiative.