Fiscal Impact Statement for Initiative 2109

FISCAL IMPACT SUMMARY

If approved by voters, Initiative 2109 will result in an estimated state revenue loss of $2.2 billion over five state fiscal years. This would reduce funding dedicated for K–12 education, higher education, early learning and child care. Future reductions to funds dedicated for K–12 school construction are possible but not currently forecasted. The estimated net savings for administrative expenses for two state agencies are $10.1 million over five state fiscal years. No local government fiscal impacts are known.

GENERAL ASSUMPTIONS

- The effective date of the initiative is December 5, 2024.
- The provisions of the initiative apply prospectively, not retroactively.
- The Department of Revenue (DOR) ceases all collection activities on the effective date, including those activities that are in progress.
- Estimates use the state's fiscal year (SFY) of July 1 through June 30. State fiscal year 2025 is July 1, 2024, to June 30, 2025.
- Calendar year refers to January 1 to December 31.

REVENUE

Local Revenue

The initiative will not impact local revenue.

State Revenue

The initiative is estimated to result in revenue loss of $2,190,000,000 over five fiscal years from the Education Legacy Trust Account. The first $500,000,000, indexed to inflation, is deposited into the Education Legacy Trust Account each fiscal year. The Education Legacy Trust Account supports K–12 education, expands access to higher education and provides funding for early learning and child care programs. Additional revenue is deposited into the Common School Construction Account to fund K–12 school facility construction.

STATE REVENUE ASSUMPTIONS

Revenue estimates are based on DOR's excise tax data and the Economic and Revenue Forecast Council (ERFC) June 2024 capital gains tax revenue forecast. Capital gains tax year refers to the calendar year.

The following additional assumptions are made for calculation purposes:

- Forecasted capital gains taxes for tax year 2024, due in April 2025, will not be collected and result in a revenue loss for state fiscal year 2025.

- The long-term growth rate used is the rate forecasted by the ERFC in June 2024.
- The June 2024 capital gains tax forecast assumes zero capital gains tax revenue to the Common School Construction Account; therefore, there is zero revenue impact to this account due to the initiative.

State Revenue Impacts

Table 1. Revenue loss, by account

	SFY 2025	SFY 2026	SFY 2027	SFY 2028	SFY 2029
Education Legacy Trust Account	($424,000,000)	($398,000,000)	($422,000,000)	($447,000,000)	($499,000,000)
Common School Construction Account	$0	$0	$0	$0	$0
TOTAL	($424,000,000)	($398,000,000)	($422,000,000)	($447,000,000)	($499,000,000)

STATE GOVERNMENT EXPENDITURES

State Agency Implementation Cost Assumptions

State agency savings are estimated to be a net total of $10,147,700 over five state fiscal years as a result of the initiative. Savings by agency are:

Table 2. Expenditures, by agency (State General Fund and Legal Services Revolving Account)

	SFY 2025	SFY 2026	SFY 2027	SFY 2028	SFY 2029
Office of the Attorney General	($23,000)	($23,000)	($23,000)	($23,000)	($23,000)
Department of Revenue	$0	($2,364,900)	($2,433,800)	($2,604,600)	($2,629,400)
TOTAL	($23,000)	($2,387,900)	($2,456,800)	($2,627,600)	($2,652,400)

Office of the Attorney General

The Office of the Attorney General (AGO) will save $23,000 in each state fiscal year from 2025 through 2029. This amounts to total savings of $115,000 over this five-year period.

The AGO estimates savings due to less litigation and less need for client advice services. The AGO expects DOR to need minimal legal advice as the department deals with specific cases where taxpayers seek refunds. It is assumed that cases contesting capital gains tax assessments that had not already been paid will drop, because the department can no longer collect the assessed taxes.

Department of Revenue

The department will save a net of $10,032,700 over the five-year period between 2025 and 2029. It is assumed that the existing State General Fund appropriation for administering the capital gains tax will end as of June 30, 2025. For state fiscal year 2025, the amount already provided is sufficient to administer the capital gains tax without additional funding. For state fiscal years 2026 through 2029, savings of $2,703,000 per state fiscal year are assumed for capital gains tax administration duties that will no longer be required. The department will also incur costs of $779,300 during this period as described below. The department's duties to administer taxes include maintaining records, processing refunds and assisting taxpayers with amended returns for up to five prior tax years. Therefore, the department will continue to have costs related to administering the capital gains tax and the related business and occupation (B&O) tax credit for capital gains tax filers for tax years 2022 and 2023 through December 31, 2028. Starting on January 1, 2029, DOR will have additional costs to decommission the capital gains tax and related B&O tax credit in computer systems. It is assumed that the State General Fund will be the funding source for this work.

In state fiscal year 2025, DOR will have costs that will be paid with existing funds for the following activities:

- Updating special notices and excise tax advisories, canceling interim guidance statements and updating other capital gains tax information on the website.
- Amending two administrative rules.
- Administering computer system changes and testing for capital gains tax and related B&O tax credits.

In state fiscal years 2026, 2027, 2028 and 2029 the department will have costs for the following activities:

- Accounting activities related to capital gains tax.
- Processing paper correspondence, responding to web messages, answering phone questions and assisting taxpayers with reporting and navigating the web reporting portal.
- Processing returns, payments and all associated work items, including issuing refunds for overpayments.
- Hearing administrative reviews that provide taxpayers with an informal, non-adversarial dispute resolution process for reviewing a disputed department action, such as a denial of a refund request or tax ruling. The department will incur additional costs if the dispute continues to the Board of Tax Appeals or the courts.
- Making necessary computer system changes and performing required computer system testing as service packs and core system upgrades occur.

In state fiscal year 2029, the department will also have costs to decommission the capital gains tax and related B&O tax credit in the computer system and to perform related required computer system testing.