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MEMORANDUM

April 3, 2013

TO: Bruce Broderius, Kate Pettersen, and Casey Shea

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2013-2014 #37, concerning Public School Funding

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.

This initiative was submitted with a series of initiatives including proposed initiatives 2013-2014 #30 to #37. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memoranda for proposed initiatives 2013-2014 #30 and #31 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.

Purposes

The major purposes of the proposed amendment to section 17 of article IX of the Colorado constitution appear to be:

1. To specify that personal net income shall be taxed at voter-approved rates based on taxable net income, without regard to any elements of subsection (8) (a) of section 20 of article X of the Colorado constitution;
2. To specify the rate at which personal taxable net income is taxed on or after January 1, 2014, for individuals filing a joint federal return;
3. To specify that the tax rate tiers specified in the initiative may be annually adjusted for inflation from the previous year by the general assembly;
4. To require the department of revenue to annually determine the amount of tax revenue collected that is attributable to voter-approved tax rate changes above the income tax rate of 4.63% and to require such amount to be deposited in the state education fund;
5. To require all revenues collected pursuant to the proposed initiative to be collected and spent as a voter-approved revenue change without regard to any limitations on revenue, spending, or appropriations contained in section 20 of article X of the Colorado constitution;
6. To require all revenues deposited in the state education fund pursuant to the proposed initiative to be appropriated by the general assembly only for the costs of public education from preschool through twelfth grade;
7. To specify that revenues realized from the proposed initiative that are appropriated by the general assembly for public education are in addition to and not a substitute for moneys otherwise appropriated by the general assembly for the costs of preschool through twelfth grade public education;
8. To require the amount of the appropriation by the general assembly for public education to be not less than the amount appropriated for such purposes for fiscal year 2012-13, adjusted by the aggregate annual percentage change in student enrollment, as described in section 20 of article X of the Colorado constitution, as determined for all school districts in the state; and
9. To require any revenue that the state would be required to refund pursuant to section 20 (7) of article X of the Colorado constitution to be instead transferred to the state education fund for the 2013-14 state fiscal year and fiscal years thereafter.

Technical Comments

The technical comments set forth in the review and comment memorandum on proposed

initiatives 2013-2014 #30, #31, and #33 are applicable to proposed initiative 2013-2014 #37 and, as such, will not be repeated. However, the following new technical comment has arisen:

1. In subsection (6) of the proposed initiative, the paragraphs should be relettered so that there is no duplicate paragraph (b).

Substantive Comments and Questions

The substantive comments and questions set forth in the review and comment memorandum on proposed initiatives 2013-2014 #30 and #31 are applicable to proposed initiative 2013-2014 #37 and, as such, will not be repeated.