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Colorado General Assembly

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MEMORANDUM

TO: Kevin Neal Patterson II and Eric Leveridge
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: February 7, 2018
SUBJECT: Proposed initiative measure 2017-2018 #139, concerning Policy Changes
Pertaining to State Income Taxes

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 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 2017-2018 #133 to #138, and #140 to #144. The comments and questions raised in this memorandum will not include comments and questions that are addressed in the memoranda for the other proposed initiatives, except as necessary to fully understand the issues raised by this 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

The major purposes of the proposed amendment to the Colorado constitution and the Colorado Revised Statutes appear to be:

1. To eliminate the state constitutional requirement that all taxable net income be taxed at one rate;
2. To specify that on and after January 1, 2019, the state income tax rate be increased from 4.63 percent to 11.8 percent for individuals with federal taxable income (FTI) greater than \$500,000;
3. To expand the qualifications for individuals and caregivers to be eligible to receive a Colorado earned income tax credit (EITC);
4. To require the Department of Revenue to calculate the net increase in income tax revenue;
5. To specify that the net increase in income tax revenue be used for the refundable Colorado EITC and to pay the department's reasonable and necessary expenses to administer the Colorado EITC;
6. To repeal the existing EITC; and
7. To specify that the net increase in income tax revenue attributable to the rate change described in purpose no. 2 is not subject to any limitations on general fund appropriations or any other spending limitation in law including section 20 of article X of the constitution.

Substantive Comments and Questions

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

1. It appears that proposed initiatives #139 through #144 all make similar changes to proposed initiative #133 as follows:
 - a. Proponents' section 39-22-123.3 (2) appears to specify the amount of the credit for a taxpayer who has no qualifying children. Is this correct? Please give an example of the calculation for the credit amount and an explanation of the intent for proponents' subsections (2)(i) and (2)(ii).
 - b. Proponents' section 39-22-123.3 (3) appears to specify the amount of the credit for a taxpayer who has one or more qualifying children. Is this correct? Please give an example of the calculation for the credit amount

and an explanation of the intent for proponents' subsections (3)(i) and (3)(ii).

- c. What is the amount of the credit for a taxpayer who is an eligible caregiver or an eligible student? Would that be determined based on whether the taxpayer has any qualifying children? If zero then the credit is the amount in proponents' section 39-22-123.3 (2)(i), if one or more then the credit is the amount in proponents' section 39-22-123.3 (2)(ii). Is that correct?
 - d. The "federal match" in proponents' section 39-22-123.3 (10) is set at 30% instead of 25%. Is that correct?
2. Are there any other differences between this proposed initiative and initiative #133?

Technical Comments

The technical comments raised in the memorandum for initiative 2017-2018 #133 are incorporated by reference in this memorandum. There are no new technical comments.