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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: March 6, 2018
SUBJECT: Proposed initiative measure 2017-2018 #159, 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 #156 to #159. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memorandum for proposed initiative 2017-2018 #157, except as necessary to fully understand the issues raised by the revised proposed initiative. Comments and questions addressed in that other memorandum may also be relevant, and those questions and comments are hereby incorporated by reference in this memorandum.

Earlier versions of this proposed initiative, proposed initiatives 2017-2018 #133 to #144, were the subject of memoranda dated February 7, 2018, which were discussed at a public meeting on February 9, 2018. 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 continue to be relevant and are hereby incorporated by reference 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 specify that on and after January 1, 2019, the state income tax rate be increased from 4.63 percent to ____ percent for individuals with federal taxable income (FTI) greater than \$500,000;
2. To expand the qualifications for individuals, caregivers, and students to be eligible to receive a Colorado earned income tax credit (EITC);
3. To require the Department of Revenue to calculate the net increase in income tax revenue and to specify that the money must be used for the Colorado EITC and paid to eligible claimants, "provided that no more than two percent of such moneys may be used to pay the department's reasonable and necessary expenses to administer" the Colorado EITC, and that those expenses be tracked annually;
4. To repeal the existing EITC;
5. To specify that all revenues required for payment of the Colorado EITC and for administrative expenses must be collected and spent as voter-approved revenue changes without regard to any limitation on revenue or spending contained in section 20 of article X of the constitution ("TABOR") or any other law; and
6. To eliminate the state constitutional requirement that all taxable net income be taxed at one rate.

Substantive Comments and Questions

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

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1. Is it correct that the only difference between this initiative and initiative 2017-2018 #157 is the change to the income tax rate is for FTI greater than \$500,000 (from \$300,000)?

Technical Comments

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