

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Carol Hedges and Steve Briggs

FROM: Legislative Council Staff and Office of Legislative Legal Services

DATE: January 17, 2019

SUBJECT: Proposed initiative measure 2019-2020 #189, 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 2019-2020 #179 to #188 and #190 to #195. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memoranda for proposed initiatives 2019-2020 #179 to #188 and #190 to #195, 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 the Colorado Constitution and the Colorado Revised Statutes appear to be:

1. To repeal the constitutional requirement that the income tax have a single rate;
2. To establish a graduated individual income tax that lowers the income tax rate for the first bracket and increases the tax rate for the three brackets above it;
3. To allow the state to retain and spend the additional revenue from the graduated income tax notwithstanding any constitutional limits; and
4. To require this additional tax revenue to be used to address the impacts of a growing population and a changing economy.

Substantive Comments and Questions

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

1. Article V, section 1 (5.5) of the Colorado constitution requires all proposed initiatives to have a single subject. What is the single subject of the proposed initiative?
2. Unlike the prior initiatives submitted along with the proposed initiative, this proposed initiative includes a rate decrease for taxable income from 4.63% to 4.58%. Is this lower rate consistent with the fair and just tax system described in section 1 of the proposed initiative?
3. The tax rates in the measure include an exception for section 39-22-627, C.R.S., which specifies a temporary reduction in the income tax rate from 4.63% to 4.5% as a TABOR refund mechanism. How does this exception apply if a 4.63% income tax rate is no longer imposed on the income of individuals, estates, and trusts?
4. If the tax rate were temporarily reduced to 4.5% pursuant to section 39-22-627, C.R.S., would the rate then revert to 4.63%, as implied in that section, or to the rates in the proposed initiative?

5. Is it your intent that the revenue described in proposed section 24-77-103.3 is the net of the tax decrease associated with the first tax bracket and the increase associated with the higher tax brackets?
6. What happens if the revenue decrease associated with the first tax bracket is greater than the increase associated with the higher tax brackets? Would proposed section 24-77-103.3 not apply?
7. Section 20 (4)(a) of article X of the Colorado Constitution (TABOR) requires prior voter approval for any "tax rate increase" and TABOR (3)(c) requires "the first . . . full fiscal year dollar increase" to be included in the specified language that begins the ballot question. Should the first full fiscal year dollar increase include only the revenue from the rate increases, which require voter approval under TABOR (4)(a)? Or should it include the net of those increases and the decrease in revenue from the rate decrease for the first tax bracket, which does not require voter approval?

Technical Comments

There are no additional technical comments.