Colorado Legislative Council Staff

Initiative # 174

INITIAL FISCAL IMPACT STATEMENT

Date: April 16, 2018 **Fiscal Analyst:** Greg Sobetski (303-866-4105)

LCS TITLE: SINGLE INCOME TAX RATE

Fiscal Impact Summary	FY 2018-2019	FY 2019-2020
State Revenue — *conditional*	**up to $5.5 billion**	**up to $11.4 billion**
TABOR Refund — *conditional*	($30.3 million)	($156.4 million)
State Expenditures — *conditional*	-	indeterminate decrease

Note: This *initial* fiscal impact estimate has been prepared for the Title Board. If the initiative is placed on the ballot, Legislative Council Staff may revise this estimate for the Blue Book Voter Guide if new information becomes available.

Summary of Measure

This measure takes effect if and only if another initiated ballot measure is approved at the 2018 General Election that repeals the constitutional provision requiring state taxable income to be taxed at a single rate. If a measure is approved that imposes an income tax rate higher than the current 4.63 percent rate on some portion of taxable individual, estate, or trust income (taxable income), and no income tax rate lower than the current rate, then the measure requires that all taxable income be taxed at the higher rate in the other measure. This measure states that its text shall control in the event of any conflict with another measure. Current law state income tax additions, subtractions, exclusions, and deductions are preserved. Revenue generated from the tax rate in this measure is exempt from TABOR as a voter-approved revenue change.

Other provisions govern circumstances in which a tax rate lower than the current rate is imposed; however, these provisions are expected to have no practical effect because no such ballot measure has been submitted for consideration at the 2018 election.

If no other ballot measure is adopted that repeals the single income tax rate requirement, this measure does not take effect and has no fiscal impact.

Background

Other initiated measures proposing the imposition of multiple tax rates. The State Title Board has set titles for 14 initiated measures that repeal the constitutional provision requiring a single income tax rate and impose different tax rates on different incomes. For 2019 and subsequent tax years, these measures each impose a graduated income tax; that is, a higher tax rate on the portion of taxable income that exceeds some threshold, either $300,000 or $500,000. Table 1 summarizes these measures by the higher tax rate they impose and the threshold at which this rate applies. At this time, the proponents of these measures have not had petitions approved for circulation.

Table 1. Other Initiated Measures Proposing Graduated Income Tax Rates*		
Measure	**Highest Income Tax Rate**	**Taxable Income Threshold at which Highest Rate Applies**
2017-2018 #133	11.80 percent	$500,000
2017-2018 #134	11.80 percent	$500,000
2017-2018 #135	11.80 percent	$500,000
2017-2018 #136	9.87 percent	$300,000
2017-2018 #137	9.87 percent	$300,000
2017-2018 #138	9.87 percent	$300,000
2017-2018 #139	11.80 percent	$500,000
2017-2018 #140	11.80 percent	$500,000
2017-2018 #141	11.80 percent	$500,000
2017-2018 #142	9.87 percent	$300,000
2017-2018 #143	9.87 percent	$300,000
2017-2018 #144	9.87 percent	$300,000
2017-2018 #157	8.63 percent	$300,000
2017-2018 #159	9.75 percent	$500,000

**Initiatives #86 through #93 are omitted from this table because they do not repeal the constitutional provision requiring a single income tax rate; see the Technical Note section of this fiscal impact statement.*

Voter-approved revenue changes in the other measures. All of the measures listed in Table 1 contain language that exempts at least a portion of revenue attributable to the tax rate increase from the state TABOR limit. In Initiatives #133 through #138, all revenue attributable to the tax rate increase is exempt. In Initiatives #139 through #144, the portion of revenue equal to the amount of the earned income tax credit authorized in the measure, plus the administrative expenses required therefore, is exempt. In Initiatives #157 and #159, revenue is exempt to the extent that it exceeds the amount required for the earned income tax credit authorized in the measure, plus the administrative expenses required therefore.

State Revenue

Conditional on the concurrent approval of one of the other ballot measures listed in Table 1, this measure increases General Fund income tax revenue by up to $5.5 billion in FY 2018-19, up to $11.4 billion in FY 2019-20, and similar amounts in subsequent fiscal years. The estimate for FY 2018-19 represents a half-year impact for tax year 2019 on an accrual accounting basis. The amount by which revenue will increase differs according to which other measure is adopted concurrent with this measure. The revenue impact of this measure alongside other measures is presented in Table 2. It is assumed that no more than one of the other ballot measures will become law.

Table 2. Revenue Impact of Initiative #174 with Other Initiated Measures		
Measure Adopted with Initiative #174	**Revenue Impact FY 2018-19**	**Revenue Impact FY 2019-20**
2017-2018 #133, 134, 135, 139, 140, 141	$5.5 billion	$11.4 billion
2017-2018 #136, 137, 138, 142, 143, 144	$3.9 billion	$8.0 billion
2017-2018 #157	$2.9 billion	$6.1 billion
2017-2018 #159	$3.9 billion	$8.2 billion
None of the above	-	-

Assumptions. The amounts in Table 2 are based on actual taxpayer data for tax year 2015, observed income tax revenue growth for 2016, and the March 2018 Legislative Council Staff (LCS) economic and revenue forecast for subsequent tax years. These amounts are consistent with the published initial fiscal impact statements for Initiatives #157 and #159. Relative to the published initial fiscal impact statements for Initiatives #133 through #144, the values in Table 2 have been updated to reflect the March 2018 forecast.

The values in Table 2 represent the amount of the revenue increase that would occur under Initiative #174 and would not occur if one of the other measures were adopted on its own. For Initiatives #136 through #138, #142 through #144, and #157, these amounts represent the impact of imposing a higher tax rate on taxable income up to $300,000. For Initiatives #133 through #135, #139 through #141, and #159, these amounts represent the impact of imposing a higher tax rate on taxable income up to $500,000.

To the extent that taxable income decreases as a result of the higher tax rate imposed in the measure, the measure's revenue impact will be less than estimated.

TABOR Impact

Conditional on the concurrent approval of one of the other ballot measures listed in Table 1, this measure reduces the amount of state income tax revenue that is subject to TABOR by up to $4.2 billion in FY 2018-19 and by up to $8.6 billion in FY 2019-20 and subsequent years. The estimate for FY 2018-19 represents a half-year impact for tax year 2019. The actual amount by which state revenue subject to TABOR is reduced differs according to which other measure is adopted concurrent with this measure. The TABOR impact of this measure alongside other measures is presented in Table 3.

The values in Table 3 represent the amount of revenue exempted in Initiative #174 that would not be exempted if one of the other measures were adopted on its own. Because this measure states that its income tax rate replaces that otherwise enacted in law, and because it states that all revenue collected pursuant to its tax rate is exempt from TABOR, it is assumed that this measure exempts all Colorado individual income tax revenue from TABOR beginning in tax year 2019.

Table 3. TABOR Impact of Initiative #174 with Other Initiated Measures*		
Measure Adopted with Initiative #174	**TABOR Impact FY 2018-19**	**TABOR Impact FY 2019-20**
2017-2018 #133, 134, 135, 136, 137, 138	($3.5 billion)	($7.3 billion)
2017-2018 #139, 140	($3.7 billion)	($7.7 billion)
2017-2018 #141	($3.8 billion)	($7.8 billion)
2017-2018 #142, 143	($3.7 billion)	($7.6 billion)
2017-2018 #144	($3.7 billion)	($7.7 billion)
2017-2018 #157	($4.2 billion)	($8.6 billion)
2017-2018 #159	($4.2 billion)	($8.6 billion)
None of the above	-	-

**This table presents the change in state revenue subject to TABOR resulting solely from Initiative #174, given the adoption of each of the other measures listed.*

Elimination of expected TABOR refunds. Under current law and the March 2018 LCS forecast, state revenue subject to TABOR is expected to exceed the Referendum C cap by $8.4 million in FY 2018-19 and by $156.4 million in FY 2019-20, requiring TABOR refunds of $30.3 million in FY 2019-20 and $156.4 million in FY 2020-21. The exemption in this measure is more than sufficient to eliminate these refund obligations, increasing the amounts of money available in the General Fund correspondingly. Under current law and revenue expectations, these refunds would be paid to local governments to offset their revenue loss attributable to the senior and disabled veteran property tax exemptions. Because the state is required to pay these reimbursements even if there is no TABOR refund obligation, eliminating refunds is not expected to have a direct impact to taxpayers.

In addition, the elimination of these TABOR surpluses will result in the following fiscal impacts:

- TABOR refund obligations carried over from prior surpluses, estimated at $21.8 million, will be postponed until the next TABOR refund occurs. This amount was already set aside in the General Fund during prior years; and
- partial refundability of the gross conservation easement income tax credit will not be available in tax year 2019 or tax year 2020, resulting in an estimated $2.5 million General Fund revenue increase in FY 2018-19 and a $4.9 million increase in FY 2019-20.

The state TABOR situation is not projected beyond FY 2019-20. However, the exemption in this measure will significantly reduce the likelihood of TABOR refunds in subsequent years.

State Expenditures

Conditional on the concurrent approval of one of the other ballot measures listed in Table 1, this measure decreases state expenditures by an indeterminate amount in FY 2019-20 and subsequent fiscal years. The amount by which expenditures will decrease differs according to which of the other measures is adopted concurrent with this measure. Expenditures are expected to decrease because the single income tax rate in this measure will require fewer Department of Revenue expenses for computer programming, taxpayer correspondence, and auditing than the graduated income tax rate that would take effect if one of the other measures were enacted without Initiative #174. Because of the number of variables, these savings are not estimated, and it is assumed that appropriations for tax administration will be reconciled in implementing legislation.

The increase in state revenue, as explained in the State Revenue section of this fiscal impact statement, will allow for increased state spending, saving, or refunds to taxpayers at the discretion of the General Assembly. The measure does not require that these funds be used in a particular manner.

Economic and Taxpayer Impacts

Conditional on the concurrent adoption of one of the other ballot measures listed in Table 1, this measure will increase taxes for all Colorado individual, estate, and trust income taxpayers. Taxes will increase by up to an average of $4,700 per individual income taxpayer in tax year 2019. The amount of the tax increase depends on which other measure is approved concurrently with this measure. Table 4 presents average individual income taxpayer impacts for tax years 2019 and 2020 depending on which other measure is approved.

Table 4
Average Taxpayer Impacts of Initiative #174 with Other Initiated Measures
Corporate Taxpayers Are Not Affected

Measure Adopted with Initiative #174	Average Taxpayer Impact 2019	Average Taxpayer Impact 2020
2017-2018 #133, 134, 135, 139, 140, 141	$4,700	$5,000
2017-2018 #136, 137, 138, 142, 143, 144	$3,300	$3,500
2017-2018 #157	$2,500	$2,700
2017-2018 #159	$3,400	$3,600
None of the above	-	-

Taxpayer impacts will vary significantly according to one's taxable income. The impacts presented in Table 4 do not account for reduced economic activity as a result of increased taxes. To the extent that economic activity decreases, taxpayer impacts may be less than estimated.

The tax rate increases in this measure are sufficient to change the behavior of businesses, labor, and consumers in the economy. Higher taxes will reduce the amount available for household and business investment. Additionally, higher taxes are expected to deter some amount of migration to Colorado by households and businesses, and to motivate some resident households and businesses to leave the state.

Depending on how money is spent, increased tax revenue may allow for significant government investment in areas including health care and human services, education, infrastructure, and economic development. The General Assembly may choose instead to save these funds or return them to taxpayers through other tax deductions or credits. Because the measure does not specify a use for new tax revenue, these benefits are indeterminate.

Technical Note

This fiscal impact statement presents the fiscal impact of the measure if it is adopted alongside any of the initiatives listed in Table 1. These are assumed to be the only initiatives for which titles have been set that would cause this measure to take effect.

It is assumed that Initiative #93, for which petition signature forms have been approved, and Initiatives #86 through #92, for which titles have been set, would not cause this measure to take effect if they were adopted concurrently. While these measures impose different state income tax rates on different sources of income, they do not repeal the provision in Article X, Section 20 (8)(a) of the Colorado Constitution requiring a single income tax rate, which is established in Initiative #174 as a necessary precondition for this measure to take effect. These initiatives instead add an exemption to this requirement, allowing the assessment of different rates in a single instance. If it is determined that this measure is triggered by the adoption of those measures, then this measure would increase General Fund income tax revenue and reduce state revenue subject to TABOR in such a case.

Effective Date

The measure takes effect after the date of the official declaration of the vote by proclamation of the Governor, not later than 30 days after the votes have been canvassed. The measure takes effect if and only if one of the initiated measures identified in Table 1 is also approved by voters.

State and Local Government Contacts

Revenue

Abstract of Initiative 174: SINGLE INCOME TAX RATE

This initial fiscal estimate, prepared by the nonpartisan Director of Research of the Legislative Council as of April, 2018, identifies the following impacts:

The abstract includes estimates of the fiscal impact of the initiative. If this initiative is to be placed on the ballot, Legislative Council Staff will prepare new estimates as part of a fiscal impact statement, which includes an abstract of that information. All fiscal impact statements are available at www.ColoradoBlueBook.com and the abstract will be included in the ballot information booklet that is prepared for the initiative.

If voters approve a measure at the 2018 election that applies a higher income tax rate to some portion of taxable income, this measure applies that tax rate to all taxable individual, estate, and trust income. If no such measure is approved, this measure has no effect.

State revenue. This measure increases General Fund income tax revenue by up to $5.5 billion in FY 2018-19, up to $11.4 billion in FY 2019-20, and similar amounts in subsequent fiscal years. The amount of the increase depends on the other measure adopted alongside this measure.

TABOR impact. This measure eliminates TABOR refunds expected to occur in FY 2019-20 and FY 2020-21 under current law. It reduces the amount of state income tax revenue that is subject to TABOR by up to $4.2 billion in FY 2018-19 and by up to $8.6 billion in FY 2019-20 and subsequent years. The amount of the TABOR impact depends on the other measure adopted alongside this measure.

State expenditures. This measure decreases state expenditures for administration of the income tax by an indeterminate amount in FY 2019-20 and subsequent fiscal years. Expenditures are expected to decrease because the single income tax rate in this measure will require fewer administrative costs than a graduated income tax. The increase in state revenue will allow for increased state spending, saving, or refunds to taxpayers at the discretion of the General Assembly.

Economic and taxpayer impacts. This measure increases taxes on all Colorado individual income taxpayers. Taxes will increase by up to an average of $4,700 per taxpayer in tax year 2019. The amount of the tax increase depends on which other measure is adopted alongside this measure. Taxpayer impacts will vary significantly according to one's taxable income. Depending on how money is spent, increased tax revenue may allow for significant government investment in areas including health care and human services, education, infrastructure, and economic development. The General Assembly may choose instead to save these funds or return them to taxpayers through other tax deductions or credits. Because the measure does not specify a use for new tax revenue, these benefits are indeterminate.