

FEB 07 2020

S. WARD
12:49 P.M.

Colorado Secretary of State

INITIATIVE 2019-2020 #271: POLICY CHANGES PERTAINING TO STATE INCOME TAXES

Be it Enacted by the People of the State of Colorado:

SECTION 1. FAIR AND JUST TAX SYSTEM. TAXPAYERS ARE ENTITLED TO A FAIR AND JUST TAX SYSTEM. THE IS THAT, TO THE EXTENT PRACTICABLE, ALL TAXPAYERS SHOULD PAY SIMILAR PERCENTAGES OF THEIR INCOME IN TOTAL TAXES. SOME TAXES, SUCH AS SALES TAXES AND PROPERTY TAXES, HAVE A DISPROPORTIONAL IMPACT ON THOSE WITH LOWER INCOMES. A GRADUATED INDIVIDUAL INCOME TAX, WHICH TAXES THOSE WITH GREATER INCOMES AT HIGHER INCREMENTAL RATES, MAKES THE TAX SYSTEM MORE FAIR AND JUST.

SECTION 2. In the constitution of the state of Colorado, section 20 of article X, **amend** (8)(a) as follows:

(8)(a) Revenue Limits. New or increased transfer tax rates on real property are prohibited. No new state real property tax or local district income tax shall be imposed. Neither an income tax rate increase nor a new state definition of taxable income shall apply before the next tax year. ~~Any income tax law change after July 1, 1992 shall also require all taxable net income to be taxed at one rate, excluding refund tax credits or voter approved tax credits, with no added tax or surcharge.~~

SECTION 3. In Colorado Revised Statutes, 39-22-104, **amend** (1.7) and (2); and **add** (1.8) as follows:

39-22-104. Income tax imposed on individuals, estates, and trusts – single rate – legislative declaration – definitions – repeal. (1.7) Except as otherwise provided in section 39-22-627, subject to subsection (2) of this section, with respect to taxable years commencing on or after January 1, 2000, BUT PRIOR TO JANUARY 1, 2021, a tax of four and sixty-three one hundredths percent is imposed on the federal taxable income, as determined pursuant to section 63 of the internal revenue code, of every individual, estate, and trust.

(1.8)(a) EXCEPT AS OTHERWISE PROVIDED IN SECTION 39-22-627, SUBJECT TO SUBSECTION (2) OF THIS SECTION, WITH RESPECT TO TAXABLE YEARS COMMENCING ON OR AFTER JANUARY 1, 2021, A GRADUATED TAX IS IMPOSED ON FEDERAL TAXABLE INCOME, AS DETERMINED PURSUANT TO SECTION 63 OF THE INTERNAL REVENUE CODE, OF EVERY INDIVIDUAL, ESTATE, AND TRUST, WITH GREATER TAX RATES APPLYING TO HIGHER INCOME BRACKETS, AND EACH TAX RATE APPLYING ONLY TO THE INCOME BRACKET FOR THAT TAX RATE, AS FOLLOWS:

(I) FOR FEDERAL TAXABLE INCOME NOT OVER TWO HUNDRED FIFTY THOUSAND DOLLARS, THE TAX IS FOUR AND FIFTY-EIGHT ONE-HUNDREDTHS PERCENT;

(II) FOR FEDERAL TAXABLE INCOME OVER TWO HUNDRED FIFTY THOUSAND DOLLARS, BUT NOT OVER FIVE HUNDRED THOUSAND DOLLARS, THE TAX IS (A) ELEVEN THOUSAND FOUR HUNDRED FIFTY DOLLARS PLUS (B) SEVEN PERCENT OF THE AMOUNT OVER TWO HUNDRED FIFTY THOUSAND DOLLARS;

(III) FOR FEDERAL TAXABLE INCOME OVER FIVE HUNDRED THOUSAND DOLLARS, BUT NOT OVER ONE MILLION DOLLARS, THE TAX IS (A) TWENTY-EIGHT THOUSAND NINE HUNDRED FIFTY DOLLARS PLUS (B) SEVEN AND THREE QUARTERS PERCENT OF THE AMOUNT OVER FIVE HUNDRED THOUSAND DOLLARS; AND

(IV) FOR FEDERAL TAXABLE INCOME OVER ONE MILLION DOLLARS, THE TAX IS (A) SIXTY-SEVEN THOUSAND SEVEN HUNDRED DOLLARS PLUS (B) EIGHT AND NINETY ONE-HUNDREDTHS PERCENT OF THE AMOUNT OVER ONE MILLION DOLLARS.

(1.8)(b) THE INCOME BRACKETS SET FORTH IN THE ABOVE SCHEDULE SHALL BE ADJUSTED EACH INCOME TAX YEAR BY THE PERCENTAGE CHANGE IN COLORADO PERSONAL INCOME. FOR PURPOSES OF THIS SUBSECTION, "COLORADO PERSONAL INCOME" MEANS THE TOTAL PERSONAL INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES

DEPARTMENT OF COMMERCE, OR ANY SUCCESSOR INDEX.

(1.9) Fair tax review commission – creation – membership – duties - repeal.

(a) ON OR BEFORE JULY 1, 2029, A FAIR TAX REVIEW COMMISSION (THE “COMMISSION”) SHALL BE CREATED.

(b) THE COMMISSION SHALL CONSIST OF TWENTY-FIVE MEMBERS APPOINTED AS FOLLOWS:

(I) FOUR NONVOTING TASK FORCE MEMBERS, ONE APPOINTMENT FROM EACH OFFICE, WITH RELEVANT EXPERIENCE IN ECONOMICS, BUDGETING, OR TAX POLICY, SHALL BE APPOINTED BY:

- (A) THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL;
- (B) THE DIRECTOR OF THE OFFICE OF LEGISLATIVE LEGAL SERVICES;
- (C) THE STAFF DIRECTOR OF THE JOINT BUDGET COMMITTEE; AND
- (D) THE STATE AUDITOR.

(II) WITH INPUT FROM THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND THE PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES AND THE MINORITY LEADER OF THE SENATE, THE GOVERNOR SHALL APPOINT TWENTY-ONE VOTING MEMBERS AS FOLLOWS:

- (A) A REPRESENTATIVE OF THE OFFICE OF STATE PLANNING AND BUDGETING;
- (B) A REPRESENTATIVE FROM THE TAXATION DIVISION IN THE DEPARTMENT OF REVENUE;
- (C) A REPRESENTATIVE OF THE OFFICE OF ECONOMIC DEVELOPMENT;
- (D) A REPRESENTATIVE OF THE OFFICE OF THE STATE TREASURER;
- (E) ONE MEMBER FROM A STATE PUBLIC OR PRIVATE INSTITUTION OF HIGHER EDUCATION WITH KNOWLEDGE OF TAX POLICY;

(F) ONE MEMBER FROM A STATE PUBLIC OR PRIVATE INSTITUTION OF HIGHER EDUCATION WITH KNOWLEDGE OF ECONOMICS;

(G) FOUR MEMBERS REPRESENTING LOCAL GOVERNMENT, ONE FROM A HOME RULE CITY OR CITY AND COUNTY, ONE FROM A STATUTORY CITY, ONE FROM A HOME RULE COUNTY, AND ONE FROM A STATUTORY COUNTY;

(H) TWO TAX LAW PRACTITIONERS WHO ARE NOT EMPLOYED BY A HOME RULE OR STATUTORY CITY OR CITY AND COUNTY;

(I) TWO CERTIFIED PUBLIC ACCOUNTANTS WITH STATE AND LOCAL TAX EXPERIENCE WHO ARE NOT EMPLOYED BY A HOME RULE OR STATUTORY CITY OR CITY AND COUNTY;

(J) TWO SMALL BUSINESS OWNERS;

(K) TWO LARGE BUSINESS OWNERS;

(L) ONE MEMBER REPRESENTING A NONPROFIT ORGANIZATION WITH EXPERTISE IN TAX POLICY;

AND

(M) TWO MEMBERS REPRESENTING THE PUBLIC AT LARGE.

(c) MEMBERS OF THE FAIR TAX REVIEW COMMISSION SHALL SERVE WITHOUT COMPENSATION.

(d) A VACANCY OCCURRING IN A POSITION SHALL BE FILLED AS SOON AS POSSIBLE BY THE GOVERNOR IN ACCORDANCE WITH THE LIMITATIONS SPECIFIED IN SUBPARAGRAPH II OF PARAGRAPH (b) OF THIS SUBSECTION.

(e) IN MAKING APPOINTMENTS OF VOTING MEMBERS TO THE COMMISSION, THE GOVERNOR SHALL ENSURE THAT THE MEMBERSHIP OF THE COMMISSION INCLUDES PERSONS WHO HAVE EXPERIENCE WITH OR INTEREST IN THE STUDY AREAS OF THE COMMISSION AS SET FORTH IN PARAGRAPH (h) OF THIS SUBSECTION; PERSONS WHO REFLECT THE ETHNIC, CULTURAL, AND GENDER DIVERSITY OF THE STATE; REPRESENTATION OF ALL AREAS OF THE STATE; AND, TO THE EXTENT PRACTICABLE, PERSONS WITH DISABILITIES.

(f) COMMISSION MEMBERS SHALL SEEK INPUT FROM THE VARIOUS DEPARTMENTS, OFFICES, OR ORGANIZATIONS THEY REPRESENT OR THAT THEY ARE ASSOCIATED WITH, IF ANY.

(g) IN ORDER TO ADVANCE THE WORK OF THE COMMISSION, MEMBERS SHALL PARTICIPATE IN DECISION-MAKING, WITH THE UNDERSTANDING THAT INDIVIDUAL VOTES ON COMMISSION ISSUES ARE BASED ON SUBJECT MATTER EXPERTISE AND DO NOT COMMIT REPRESENTATIVE OR ASSOCIATED ENTITIES OR ORGANIZATIONS TO ANY POSITION OR ACTION. COMMISSION MEMBERS SHALL ADHERE TO ANY AGREED UPON PROCEDURAL RULES AND GUIDELINES.

(h) ON OR BEFORE JANUARY 1, 2031, THE COMMISSION SHALL REPORT TO THE GOVERNOR, THE GENERAL ASSEMBLY, AND THE PUBLIC ON THE EFFECTS OF THE RATE STRUCTURE OF THE STATE INCOME TAX SYSTEM, AND PARTICULARLY ON THE EFFECTS OF SUCH RATE STRUCTURE UPON:

(i) STATE REVENUE AND FUNDING FOR PUBLIC SERVICES PROVIDED BY THE STATE;

(ii) THE DISTRIBUTION OF INCOME AMONG TAXPAYERS; AND

(iii) THE BUSINESS CLIMATE, THE ABILITY OF THE STATE TO ATTRACT AND RETAIN BUSINESS. THE COMMISSION'S REPORT SHALL INCLUDE RECOMMENDATIONS FOR MODIFICATIONS TO THE RATE STRUCTURE OF THE STATE INCOME TAX SYSTEM CONTAINED IN THIS SECTION.

(i) THIS SUBSECTION (1.9) IS REPEALED EFFECTIVE DECEMBER 31, 2031.

(2) Prior to the application of the rate of tax prescribed in subsection (1), (1.5), ~~or~~(1.7), OR (1.8) of this section, the federal taxable income shall be modified as provided in subsections (3) and (4) of this section.

SECTION 4. In Colorado Revised Statutes, add 24-77-103.3 follows:

24-77-103.3. Voter approved revenue change - use of revenue • accountability. (1) THE REVENUE RAISED BY THE TAXES IMPOSED PURSUANT SECTION TO SECTION 39-22-104(1.8) IN EXCESS OF THE REVENUE THAT WOULD BE GENERATED IN ANY CALENDAR YEAR BY APPLYING THE INCOME TAX RATE THAT EXISTED AS OF DECEMBER 31, 2019, SHALL CONSTITUTE A VOTER APPROVED REVENUE CHANGE AND MAY BE COLLECTED, KEPT AND SPENT NOTWITHSTANDING ANY OTHER LIMITS IN THE CONSTITUTION OR OTHER LAW. AT LEAST FIFTY PER CENT OF SUCH REVENUE SHALL BE APPROPRIATED AND EXPENDED FOR PRE-PRIMARY-12 EDUCATION TO RECRUIT, RETAIN, AND PAY TEACHERS AND STUDENT SERVICE PROVIDERS, PURSUANT TO THE PUBLIC SCHOOL FINANCE ACT OF 1994, ARTICLE 54 OF TITLE 22, COLORADO REVISED STATUTES, AND FOR CATEGORICAL PROGRAMS, AS DEFINED IN SECTION 17(2) OF ARTICLE 9 OF THE CONSTITUTION OF THE STATE OF COLORADO, OR THEIR SUCCESSOR PROVISIONS. THE FIFTY PERCENT SHALL BE USED TO SUPPLEMENT AND NOT SUPPLANT GENERAL FUND AND STATE EDUCATION FUND APPROPRIATIONS FOR TOTAL PROGRAM FUNDING AND CATEGORICAL PROGRAMS EXISTING ON THE EFFECTIVE DATE OF THIS SECTION. THE REMAINDER OF SUCH REVENUE SHALL BE APPROPRIATED AND EXPENDED TO ADDRESS THE IMPACTS OF A GROWING POPULATION AND A CHANGING ECONOMY. THE FUNDS SHALL BE APPROPRIATED AND EXPENDED THROUGH CURRENT FUNDING DISTRIBUTIONS. AT LEAST 90% OF SUCH REVENUE SHALL BE SPENT ON SERVICES FOR COLORADO RESIDENTS AND NOT ADMINISTRATIVE COSTS. THE GENERAL ASSEMBLY SHALL ESTABLISH A CITIZEN'S OVERSIGHT COMMITTEE TO ASSURE THAT THE FUNDS ARE SPENT IN ACCORDANCE WITH THIS SECTION. FOR EACH FISCAL YEAR THAT THE STATE RECEIVES SUCH REVENUE, THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL SHALL PREPARE A LEGISLATIVE REPORT THAT INCLUDES THE FOLLOWING INFORMATION:

(a) THE AMOUNT OF SUCH REVENUE THAT THE STATE RECEIVED; AND

(b) A DESCRIPTION OF HOW THE FUNDS WERE EXPENDED.

(2) THE REPORT REQUIRED BY THIS SECTION SHALL BE COMPLETED BY OCTOBER 15 FOLLOWING A FISCAL YEAR IN WHICH THE STATE RECEIVES SUCH REVENUE AND MAY BE AMENDED THEREAFTER AS NECESSARY. THE DIRECTOR OF RESEARCH SHALL PUBLISH AND LINK TO THE OFFICIAL WEB SITE OF THE GENERAL ASSEMBLY A COPY OF THE REPORT.



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

INITIAL FISCAL IMPACT STATEMENT

Date: February 14, 2020

Fiscal Analyst: Greg Sobetski (303-866-4105)

LCS TITLE: POLICY CHANGES PERTAINING TO STATE INCOME TAXES

Fiscal Impact Summary		FY 2020-21	FY 2021-22
Revenue	General Fund	\$1.0 billion	\$2.0 billion
Expenditures	General Fund	\$127,137	\$145,309

Disclaimer. This initial fiscal impact statement has been prepared for the Title Board. If the initiative is placed on the ballot, Legislative Council Staff may revise this estimate for the ballot information booklet (Blue Book) if new information becomes available.

Summary of Measure

The measure repeals the constitutional requirement that all taxable net income be taxed at one rate. Beginning in tax year 2021, the measure replaces the current 4.63 percent tax on income earned by individuals and fiduciaries with a graduated income tax, whereby Colorado taxable income earned above certain thresholds is taxed at higher rates. For tax year 2021, the rates in the measure are:

- for taxable income up to \$250,000, 4.58 percent;
- for taxable income from \$250,000 up to \$500,000, 7.00 percent;
- for taxable income from \$500,000 up to \$1,000,000, 7.75 percent; and
- for taxable income from \$1,000,000 and up, 8.90 percent.

The income tax brackets in the measure are adjusted for 2022 and subsequent years according to growth in Colorado personal income as measured by the Bureau of Economic Analysis in the U.S. Department of Commerce.

Revenue collected from the increased individual income tax is exempt from the state TABOR limit as a voter-approved revenue change. Revenue is required to be appropriated and spent as follows:

- 50 percent to supplement current funding for pre-primary through twelfth grade education; and
- 50 percent to address the impacts of a growing population and a changing economy, of which no more than 10 percent may be expended for administrative costs.

Funds are required to be appropriated and spent through current funding distributions. The Director of Research of the Legislative Council is required to report annually the amount of revenue received and the how funds were spent.

Beginning in FY 2029-30, the measure creates a 25-member Fair Tax Commission (commission), to include representatives of state government, local government, tax practitioners, business owners, and the public. On or before January 1, 2031, the commission is required to report on the effects of the state income tax rate structure on revenue, the income distribution, and the state business climate, and to recommend modifications to the structure.

State Revenue

The measure is expected to increase state revenue by \$1.0 billion in FY 2020-21 and \$2.0 billion in FY 2021-22 and subsequent years. The estimate for FY 2020-21 represents a half-year impact for tax year 2021 on an accrual accounting basis. Revenue increases will result from the graduated individual income tax as discussed below.

Graduated individual income tax. The graduated individual income tax is expected to increase state revenue by \$1.0 billion in FY 2020-21 and \$2.0 billion in FY 2021-22 over that which would otherwise be collected at the 4.63 percent income tax rate applied to all taxable income under current law. Estimated impacts for each of the tax year 2021 income tax brackets in the measure are shown in Table 1. Further discussion of taxpayer impacts is presented in the Taxpayer Impacts section of this fiscal impact statement below.

Table 1
Revenue Increase from Graduated Individual Income Tax Provision
Tax Year 2021

Tax Bracket	Number of Returns	Taxable Income	Gross Tax* at 4.63%	New Tax Rate**	Gross Tax* in Measure	Tax Impact
\$0 - \$249,999	2,969,000	\$120.6 billion	\$5.6 billion	4.58%	\$5.5 billion	(\$0.1 billion)
\$250,000 - \$499,999	77,000	\$25.8 billion	\$1.2 billion	7.00%	\$1.3 billion	\$0.1 billion
\$500,000 - \$999,999	23,000	\$15.2 billion	\$0.7 billion	7.75%	\$1.0 billion	\$0.3 billion
\$1,000,000 and up	11,000	\$44.2 billion	\$2.0 billion	8.90%	\$3.7 billion	\$1.7 billion
	3,080,000	\$205.8 billion	\$9.6 billion		\$11.5 billion	\$2.0 billion

Based on December 2019 Legislative Council Staff forecast; totals may not sum due to rounding.

* Gross tax amounts do not include reduced tax liability as a result of income tax credits.

** These tax rates apply only to income earned in the tax bracket in the leftmost column of this table. Income earned in lower brackets is taxed at the appropriate lower rate.

The estimates in Table 1 are based on actual tax returns for tax years 2016, 2017, and 2018, adjusted consistent with the December 2019 Legislative Council Staff forecast. Because per capita income grows less quickly than total state personal income as the population grows, revenue from the graduated income tax brackets is expected to grow less quickly from year to year than individual income tax revenue would under current law. Migration of taxpayer incomes across and within the tax brackets in the measure is difficult to predict and actual revenue collections may be less than or greater than estimated. Estimates do not incorporate the effects of changes in taxpayer behavior as a result of higher tax rates. To the extent that taxpayers choose to relocate or to source income elsewhere, the revenue increase will be less than estimated.

State Expenditures

The measure directly increases state expenditures by \$127,137 and 0.9 FTE in FY 2020-21 and \$145,309 and 2.0 FTE in FY 2021-22 and subsequent years. These expenditures are for implementation and administration of tax policy changes and required annual reporting. The measure also makes tax revenue available for expenditure in FY 2020-21 and future years; expenditures of this revenue are assumed to be determined in future legislation.

New tax revenue. The measure requires that \$1.2 billion annually collected from the additional taxes in the measure be spent for pre-primary through twelfth grade education, and that the remaining \$1.2 billion annually be spent that to address the impacts of a growing population and a changing economy. It is assumed that expenditures and appropriations for these purposes will be made pursuant to subsequent legislation; therefore, expenditures for these purposes are not identified in this fiscal impact statement.

Department of Revenue. The measure increases General Fund expenditures for the department by \$127,137 and 0.9 FTE in FY 2020-21 and \$145,309 and 2.0 FTE in FY 2021-22 and subsequent years. Expenditures to implement the individual income tax rate increases are estimated at \$41,790 in FY 2020-21. These costs are for computer programming and testing and adjustments to tax forms. The remaining amounts identified are ongoing expenditures to administer the tax policy changes in the measure.

Legislative Council Staff. Legislative Council Staff workload will increase to prepare and publish reports on tax revenue and spending. This workload increase can be accomplished within existing appropriations.

Fair Tax Commission. Workload will increase beginning in FY 2029-30 for state agencies required to staff or serve on the commission. Depending on the commission's activities, increased workload may require additional staff in the Legislative Branch, the Governor's Office, the Department of Revenue, and/or the Department of the Treasury. Staff requirements, if any, will be addressed in future state budgets.

Economic Impact

The measure decreases the state income tax burden for taxpayers with taxable incomes up to \$255,275 and increases the state income tax burden for taxpayers with taxable incomes over \$255,275. Across the economy, taxpayers will have less after-tax income available to spend or save overall, decreasing their consumption of goods and services. Increased tax rates may influence location decisions for some high-income taxpayers.

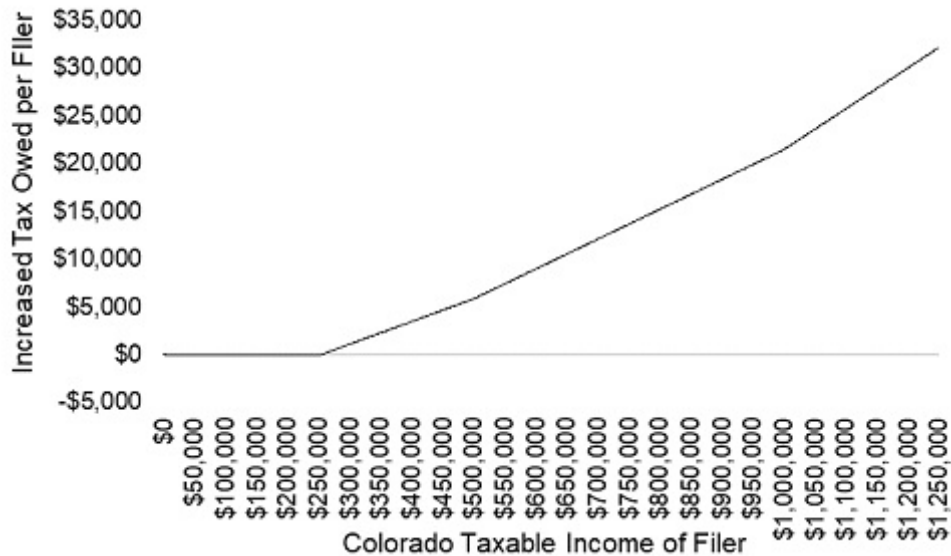
The measure will increase state government spending for pre-primary through twelfth grade education and other programs selected in the future. Government spending may increase employment or wages among public sector employees and government contractors. Additional government services may make these services available at a lower cost to citizens.

Any overall change in economic activity will depend on the net economic impact of lower after-tax household and business income for some taxpayers and additional investment in public services.

Taxpayer Impacts

Total state income taxes paid are expected to increase by \$2.0 billion for tax year 2021 and subsequent years. The change in tax owed will depend on a taxpayer's Colorado taxable income. Figure 1 presents tax impacts for tax year 2021 for taxpayers of different income levels. While, on average, individual income taxpayers will pay an additional \$646 in individual income taxes each year, income tax due will decrease by an average of \$20 for those with taxable income below \$255,275.

Figure 1
Individual Income Tax Impacts by Colorado Taxable Income
Tax Year 2021



Effective Date

If approved by voters at the 2020 general election, this measure takes effect upon proclamation of the Governor, no later than 30 days after the official canvass of the vote is completed.

State and Local Government Contacts

Legislative Council Staff Economics Section

Revenue

Abstract of Initiative 271: POLICY CHANGES PERTAINING TO STATE INCOME TAXES

The abstract includes estimates of the fiscal impact of the proposed 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.

This initial fiscal estimate, prepared by the nonpartisan Director of Research of the Legislative Council as of February 2020, identifies the following impacts:

State revenue. The measure is expected to increase state revenue from income taxes by \$1.0 billion in FY 2020-21 and \$2.0 billion in FY 2021-22 and subsequent years.

State expenditures. The measure directly increases state expenditures by \$127,137 in FY 2020-21 and \$145,309 in FY 2021-22 and subsequent years. The measure also makes tax revenue available for expenditure in FY 2020-21 and future years; expenditures of this revenue are assumed to be determined in future legislation.

Economic impacts. Across the economy, taxpayers will have less after-tax income available to spend or save, decreasing their consumption of goods and services. The measure will increase state government spending for pre-primary through twelfth grade education and other programs selected in the future. Any overall change in economic activity will depend on the net economic impact of lower after-tax household and business income for some taxpayers and additional investment in public services.

Taxpayer impacts. Total state income taxes paid are expected to increase by \$2.0 billion for tax year 2021 and subsequent years. The change in tax owed will depend on a taxpayer's Colorado taxable income. While, on average, individual income taxpayers will pay an additional \$646 each year, income tax due will decrease by an average of \$20 for those with taxable income below \$255,275.