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MEMORANDUM

TO: Bruce Mason, Karen Dike, and Martha Tierney

FROM: Legislative Council Staff and Office of Legislative Legal Services

DATE: December 30, 2015

SUBJECT: Proposed initiative measure 2015-2016 #72, concerning mandatory setbacks for oil and gas development

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 2015-2016 #65 to #72. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memoranda for proposed initiatives 2015-2016 #65 to #71, except as necessary to fully understand the issues raised by the revised proposed initiative. Comments and questions addressed in those memoranda may also be relevant, and those questions and comments are hereby incorporated by reference in this memorandum.

Purpose

The major purpose of the proposed amendment to the Colorado constitution appears to be to require that oil and gas development be at least 4,000 feet from occupied structures and areas.

Substantive Comments and Questions

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

1. It appears that this proposed initiative differs from proposed initiative #65 with respect to the distance of the setback required, the inclusion in proposed initiative #65 of section 4, prohibiting new occupied structures from being built within 2,500 feet of existing oil and gas development facilities, and the inclusion of the following language in section 3 of proposed initiative #65: "For purposes of this article, re-entry of an oil or gas well previously plugged and/or abandoned shall be considered a new well." Is that your understanding?
2. Substantive questions and comments 1 to 7, 9 to 11, and 16 to 21 of the memorandum for proposed initiative #65 apply to this proposed initiative as well. Those questions and comments are hereby incorporated by reference in this memorandum.

Technical Comments

1. Technical comments 1 to 4 and 7 of the memorandum for proposed initiative #65 apply to this proposed initiative as well. Those comments are hereby incorporated by reference in this memorandum.