

# STATE OF COLORADO

## Colorado General Assembly

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### MEMORANDUM

March 17, 2009

**TO:** Jeff Gross and Freda Poundstone

**FROM:** Legislative Council Staff and Office of Legislative Legal Services

**SUBJECT:** Proposed initiative measure 2009-2010 #10, concerning motor vehicle, income, and telecommunications taxes and fees.

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 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.

An earlier version of this initiative was the subject of a memorandum dated February 6, 2009. Proposal 2009-2010 #4 was discussed at a hearing on February 9, 2009. The comments and questions raised in this memorandum will be limited so as not to duplicate comments and questions that were addressed at the earlier hearing unless it is necessary to fully address the issues in the revised measure. However, the comments and questions that have not been addressed by changes in the proposal continue to be relevant and are hereby incorporated by reference in this memorandum.

## Purposes

The major purposes of the proposed amendment, as altered from Proposal 2009-2010 #4, appear to be:

1. To specify that the voter-approved revenue change be strictly enforced to limit government revenue.
2. To require the state to audit yearly compliance with the provisions of the proposed initiative.
3. To specify that all added charges on vehicles, except six charges specified in the proposed initiative, shall be tax increases.
4. To specify that all added charges to telecommunication service customer accounts, with the exception of 911 fees at 2009 rates, shall be tax increases

## Comments and Questions

The form and substance of the proposed initiative raise the following comments and questions:

### Technical questions:

Each of the technical questions set forth in the review and comment memorandum on proposed initiative 2009-2010 #4 is applicable to proposed initiative 2009-2010 #10 and, as such, will not be repeated.

### Substantive questions:

1. Initiative 2009-2010 #4 states in the "Enforcement" section that the "voter-approved revenue change shall be strictly enforced to *limit* government revenue", while proposed initiative 2009-2010 #10 states that the change shall be "strictly enforced to *reduce* government revenue.". What is the difference between reducing and limiting government revenue?
2. Regarding the requirement in the "Enforcement" section of the proposed initiative that the state shall "audit yearly compliance with this reform to reduce unfair, complex charges on common basic needs."
  - a. Is it your intent that the state do an audit of compliance on a yearly basis or that the state audit the yearly compliance with the provisions of the proposed initiative? If it is the former, would you add a comma to clarify your intent as follows: "The state shall audit yearly, compliance with..."? If it is the latter would you insert the word

"the" for clarity as follows: "The state shall audit the yearly compliance with...?"

- b. Which state entity is responsible for doing the audits? Would this be a new responsibility of the state auditor's office, or would some other state entity be charged with this duty?
- c. Would you consider specifying which state entity is responsible for conducting the audits? If not, who decides which government entity will have this responsibility?
- d. Is it your intent that the state audit local governments and the state for compliance? Will you specify whether the audit requirement extends to just local governments, just state government, or both?
- e. Is the state or a local government required to refund to the taxpayers revenue that was collected in violation of the provisions of the proposed initiative if such violation is discovered through the audit process?
- f. If refunds of revenue collected in violation of the proposed initiative are required, is a local government responsible for refunding revenue collected by such local government, or is the state responsible for refunding the revenue, regardless of which governmental entity collected it?
- g. If it is your intent to require refunds, will you specify that there is a refund requirement in the proposed initiative?
- h. If it is not your intent to require refunds, what is the purpose of the audit requirement?