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MEMORANDUM

May 1, 2007

TO: Matt Samelson and Megan Ferland

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2007-2008 #23, concerning the imposition and distribution of severance tax on oil and gas

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.

Proposed initiative 2007-2008 #23 was submitted along with proposal 2007-2008 #22, and the two proposed initiatives are substantially similar. Accordingly, the questions and comments set forth in the review and comment memorandum for proposed initiatives 2007-2008 #22 also apply to this proposed initiative, unless the context otherwise requires, and are incorporated herein.

In addition, proposed initiatives 2007-2008 #22 and #23 have some similarities to a series of initiatives that were previously submitted, proposals 2007-2008 #13 through #16. Those proposals were the subject of memoranda, dated April 17, 2007, and they were discussed at a meeting on April 19, 2007. All comments and questions from the earlier memoranda and meetings are hereby incorporated by reference in this memorandum.

Purposes

The major purposes of the proposed amendment appear to be:

1. To modify the state severance tax on oil and gas that was collected both before and after January 1, 2008, as follows:
 - a. Eliminating an exemption for oil and gas wells that have minimal production;
 - b. Exempting the first three hundred thousand dollars of oil and gas gross income; and
 - c. Eliminating the tax credit for property taxes assessed;
2. To exclude the revenues received from the modified tax on the severance of oil and gas from the definition of fiscal year spending and from all spending limits; and
3. To modify the current distribution of severance tax revenues by exempting the oil and gas tax revenues from that distribution and instead to require the revenues to be used in equal parts for district or charter school capital expenditures, the state education fund, energy-impacted communities, and as determined by the General Assembly.

Comments and Questions

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

1. It appears that the only difference from this proposed initiative and proposed initiative 2007-2008 #22 is the use of the tax revenue. Is that correct?