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MEMORANDUM

April 17, 2007

TO: Matt Samelson and Megan Ferland

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2007-2008 #15, concerning 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 #15 was submitted with proposed initiatives 2007-2008 #13, #14, and #16, which were all substantially similar. Accordingly, the questions and comments set forth in the review and comment memorandum for proposed initiatives 2007-2008 #13 and #14 also apply to this proposed initiative, unless the context otherwise requires, and are incorporated herein. Only new questions and comments are included in this memorandum.

Purposes

The major purposes of the proposed amendment appear to be:

1. To eliminate the current state severance tax on oil and gas and replace it with a new tax on the severance of oil and gas at a rate of at least five percent;

2. To exempt the first three hundred thousand dollars of gross income from the new tax on the severance of oil and gas;
3. To prohibit a tax credit against the new tax on the severance of oil and gas for ad valorem taxes assessed;
4. To exclude the revenues received from the new tax on the severance of oil and gas from definition of fiscal year spending and from all spending limits; and
5. To require the revenues from the new tax on the severance of oil and gas to be used in equal parts for the following purposes:
 - a. For supplemental assistance to districts or charter schools for capital expenditures;
 - b. For the state education fund;
 - c. For energy-impacted communities; and
 - d. For other purposes determined by the General Assembly.

Comments and Questions

The form and substance of the proposed initiative raise the following question:

Substantive questions:

1. The uses set forth in subsection (5) of the proposed initiative include the same uses as those set forth in proposed initiatives 2007-2008 #13 and #14; except that the percentages are different. Notwithstanding the difference in the percentages, are your answers to the questions and comments from the memorandum for proposed initiatives 2007-2008 #13 and #14 regarding the uses the same in this context?
2. Is there any other difference from this proposed initiative and proposed initiatives 2007-2008 #13 and #14 that is not otherwise identified in this memorandum?