

# STATE OF COLORADO

## Colorado General Assembly

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### MEMORANDUM

February 28, 2008

TO: Joe Neuhof and Gary Nakarado

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2007-2008 #69, concerning severance tax

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 #69 was submitted along with proposal 2007-2008 #68, and the two proposed initiatives are substantially similar. Accordingly, the questions and comments set forth in the review and comment memorandum for proposed initiative 2007-2008 #68 also apply to this proposed initiative, unless the context otherwise requires, and are incorporated herein.

## 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, 2009, as follows:
  - a. Eliminating an exemption for oil wells that have minimal production for taxable years prior to January 1, 2009; and
  - b. Eliminating the tax credit for property taxes assessed;
2. To permit the state to retain and spend all the revenues received from the modified tax on the severance of oil and gas notwithstanding the constitutional limitation on fiscal year spending or any other spending limit; and
3. To modify the distribution of oil and gas tax revenues.

## 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 2007-2008 #68 is applicable to proposed initiative 2007-2008 #69 and, as such, will not be repeated.

### Substantive questions:

1. By not striking the language "except that oil produced from any wells that produce fifteen barrels per day or less of oil and gas produced from wells that produce ninety thousand cubic feet or less of gas per day for the average of all producing days for such oil or gas production during the taxable year shall be exempt from the tax" in section 39-29-105 (1) (b), Colorado Revised Statutes, which language was stricken in initiative #68, you are allowing the exemption for stripper wells in taxable years commencing January 1, 2009, but eliminating it for all prior taxable years. Is that your intention? Was it your intention to eliminate the exemption only for the taxable year commencing January 1, 2008 which is payable in 2009?
2. How much additional revenue is estimated to be generated from this proposed initiative? How was such estimate derived?