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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 #70, 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 #70 was submitted along with proposal 2007-2008 #68 and 2007-2008 #69, and the three proposed initiatives are substantially similar. Accordingly, the questions and comments set forth in the review and comment memorandums for proposed initiatives 2007-2008 #68 and 2007-2008 #69 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 before, on, and after January 1, 2009, by eliminating an exemption for oil wells that have minimal production for taxable years prior to January 1, 2009.
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 #70 and, as such, will not be repeated here.

There is an extra period on page 1, line 39, of proposed initiative 2007-2008 #70.

Substantive questions:

1. By not striking the language in section 39-29-105 (2) (b), Colorado Revised Statutes, which language was stricken in initiatives #68 and #69, and changing the date from January 1, 2000, to January 1, 2009, you are allowing a credit against the tax for oil and gas for a certain percentage of property taxes assessed commencing on or after January 1, 2009. This would effectively reduce severance tax revenues. Is that your intention?