

# STATE OF COLORADO

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## OFFICE OF STATE PLANNING AND BUDGETING

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Bill Ritter, Jr.  
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Director

## MEMORANDUM

TO: Title Setting Review Board

FROM: Todd Saliman, Director

DATE: May 5, 2008

SUBJECT: Fiscal Analysis for Proposed Ballot Initiative #88

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Ballot Initiative #88 would amend the existing severance tax statutes to eliminate the *ad valorem* property tax credit that may be taken by oil and gas interest holders against their severance tax liabilities, eliminate the tax exemption for wells producing less than fifteen barrels of oil or ninety thousand cubic feet of gas per day, and exempt from taxation the first \$299,999 of gross income, with the entire gross income becoming taxable at \$300,000 of gross income. As the initiative raises the revenue retained by the state from an existing tax, the Governor's Office of State Planning and Budgeting (OSPB) is tasked with calculating the annual amount of the tax increase as specified by TABOR in the following format: "Shall state taxes be increased \$ \_\_\_\_\_ annually...?"

The OSPB has several caveats regarding the estimated fiscal impacts of the proposed Ballot Initiative #88. It is important to note that the additional revenue received could vary greatly from the fiscal estimate if passed. In an effort to create a reasonable fiscal estimate, the OSPB consulted with the Department of Local Affairs and Legislative Council Staff economists on the assumptions inherent to this analysis.

- **Severance taxes are extremely volatile.** Energy prices are determined by global supply and demand and are highly sensitive to unforeseeable economic and geopolitical events. The production decisions of firms in Colorado depend on several variables apart from output price, such as interest rates, technological ability and the political climate around drilling in areas of environmental significance.
- **The fiscal impact of this initiative is not completely observable *ex post*.** The total value of all *ad valorem* tax credits and small well exemptions is not tracked by the Department of Revenue due to the layout of the severance tax form and limitations of the tax accounting software system. Therefore, it will not be possible to precisely identify how much of the presumed gain in tax revenue is due to the elimination of the credit and the small well exemption and how much results from changes in price or production volume or from deductions relating to transportation, processing and manufacturing costs, or from structural reorganization related to the altered tax. Therefore, there is no basis for calculating exactly the net revenue gain for TABOR compliance purposes.

## **Fiscal Analysis**

Prices for Colorado's natural gas and oil are a weighted approximation, derived at the point-of-sale at hubs located in surrounding states where Colorado natural gas and oil is priced. These weighted prices are tracked by the Colorado Oil and Gas Conservation Commission and are accessible from their website (<http://oil-gas.state.co.us/>). Colorado is distant from markets, leading to generally lower prices and a "basis differential" from national market gas prices. Ultimately, the basis differential, combined with national market behavior in response to supply and storage capacity, all act to create an extremely dynamic price environment.

Due to the structure of the severance tax in Colorado, forecasting any particular component of the tax is difficult. Although the Title Board requires a single number for its title setting purposes, it is important to stress that the actual fiscal impact of this initiative falls within a range of possibilities. Based on the available data and our understanding of the ballot language, OSPB believes that the fiscal impact of this initiative will be between **\$237.4 million** and **\$321.4 million** above the current law OSPB severance tax forecast for FY 2009-10. It is then the recommendation of OSPB that the Title Board adopt the **\$321.4 million** figure for its title setting purposes.

The OSPB incorporated the component analysis used by the Department of Local Affairs in order to make projections regarding the value of production of oil and gas in FY 2009-10 as the basis for this estimate, incorporating estimates of gross production value, exemptions for small wells, and deductions for transportation, manufacturing and processing costs to indirectly estimate the value of the *ad valorem* credit.

Under current market prices, it is possible that some small oil wells that would otherwise have been exempt will incur a tax liability if this initiative were to be approved by voters. Without accessing confidential taxpayer data, it is not possible to estimate this effect. However, it is likely to be very small.