TOPIC: **HEARING ON PROPOSED BALLOT MEASURE: INITIATIVE REVISING SEVERANCE TAX CALCULATION TO FUND COLORADO PROMISE SCHOLARSHIPS AND FOR OTHER PURPOSES**

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I. BACKGROUND

Colorado statute (C. R. S. 1-40-106) provides for proposed initiated amendments to the Constitution or statutes to be submitted for review by the so-called Title Board prior to petitions being circulated for sufficient valid signatures to be certified to the ballot. At its May meeting, the Commission decided it would be useful to have a public hearing at its June 5 meeting to receive comments about two proposed initiated measures that would have a significant impact on public institutions of higher education.

II. SUMMARY

In April Governor Ritter announced his endorsement of a proposed initiative to amend the Colorado *statutes* (not the Constitution) to increase severance tax revenues and use the net proceeds mainly to fund the Colorado Promise Scholarships and also to fund energy efficiency and conservation programs, wildlife habitat preservation, transportation projects in impacted areas and water and waste water treatment projects. The change in the severance tax structure includes: eliminating a credit oil and gas companies can claim against their severance tax liability on account of their payments of local property taxes and lowering the annual production threshold above which so-called stripper wells are subject to severance tax.

After holding harmless the current recipients of severance taxes (the state severance tax trust fund and the local government severance tax trust fund) at 22% of revenues each, the proposal would allocate the balance of severance revenues as follows: 10% to a "perpetual base account" (until that fund and its accumulated interest equals 125% of the previous year's severance tax revenues); and the remaining 90% to an "operational account." The operational account would be further allocated: 60% to a new Colorado Promise Scholarship fund to be administered by CCHE under guidelines to be developed to account for several factors, including: family income, eligibility for other sources of financial aid, academic performance in high school and college, the type of institution attended; 10% to impact area transportation; 5% to small community drinking water and waste water projects; 15% to wildlife habitat conservation; and 10% to the clean energy fund.

The title for the measure approved by the Title Board on May 21 reads:

> State taxes shall be increased $321.4 million annually by an amendment to the Colorado Revised Statutes concerning the severance tax on oil and gas extracted in the state, and, in connection therewith, for taxable years commencing on or after January 1, 2009, changing the rate of the tax to 5% of total gross income from the sale of oil and gas extracted in the state when the amount of annual gross income is at least $300,000; eliminating a credit against the severance tax for property taxes paid by oil and gas producers and interest owners; reducing the level of production that qualifies wells for an exemption from the tax; exempting revenues from the tax and related investment income from state and local government spending limits; and requiring specified percentages of the tax revenues to be credited to (1) the severance tax trust fund, (2) the local government severance tax fund, and (3) the severance tax stabilization trust fund, which the measure creates to be used to fund scholarships for Colorado residents attending state colleges and universities, the preservation of native wildlife habitat, enhancements in renewable energy and energy efficiency, transportation projects in counties and municipalities impacted by the severance of oil and gas, and community drinking water and wastewater treatment grants.

The text of the proposed initiative, with statutory changes set out in full, is in Attachment A.

III. STAFF ANALYSIS

Because of the inability of state government to better fund higher education due to TABOR and other constraints, Colorado now ranks 49th in the nation in public support for higher education. At the same time, costs of operating the state's public institutions – which operate in a competitive national and international marketplace for faculty, staff and students – have risen for several years at rates higher than CPI. To the extent permitted by the annual appropriations process and their students' ability to pay, Colorado colleges and universities have had to resort to significant tuition increases to make up the difference. This has increased the need for financial assistance for Colorado families to be able to afford for their children to attend college.

While the OSPB needed to set a maximum *possible* amount of *new* revenue for the ballot title ($321 million), its estimate of the likely amount available for scholarships in the first year would be at least $100 million and perhaps as much as $130 million, as the 60% share of from $167 million to $217 million. The total amount of state need-based financial aid for FY08-09 is about $85 million. Thus, the proposed measure would increase need-based financial aid from 118% to 153%.

If the Severance Tax/Colorado Promise Scholarships measure is certified to the ballot and passes, CCHE will need to have its guidelines for administering the scholarships in place no later than February 2009, in order to give the state's colleges the information they need to deal with financial aid decisions in connection with admissions actions for the 09-10 academic year. The

drafting, vetting, refining and enacting of formal CCHE guidelines (policies) for administering the scholarships will take some months.

Normally, CCHE does not have a January meeting. To have policy in place by February therefore suggests it would be necessary to have guidelines ready for final approval at the December 4 CCHE meeting, or perhaps a special meeting in January, and that in turns implies a preliminary hearing on draft guidelines at the October or November CCHE meeting. In that regard it may be advisable to move the November meeting to November 13 to allow some time after the November 4 election to adjust the agenda to reflect the results. Assuming staff drafting and informal consultations and review with and by college officials will require a couple of months, and given that CCHE does not have a business meeting scheduled in August, the Commission may wish to direct Department staff to begin work on preparing draft guidelines in the near term. Regardless of the Commission's decision to endorse the measure or not, it would be prudent for the Department to make preparations in a timely way and be ready to deal with implementation, if necessary, soon after the election results are known.

Proponents of the measure argue that the increase in scholarship financial aid will make a college education more affordable for the vast majority of Colorado families, will thus increase access to higher education, increase the rate of enrolling Colorado high school graduates in post-secondary education and so contribute substantially to eliminating one aspect of the Colorado paradox – a state with a high level of adult educational attainment (due to in-migration of educated individuals) while having a relatively low level of post-secondary enrollment among its native high school graduates. The measure arguably would also advance the goal of doubling the production of degrees and certificates by 2017.

Opponents of the measures argue that an increased tax burden on the oil and gas industry will cause it to shift exploration and production elsewhere and render it unprofitable to operate in the case of some stripper wells. That, in turn, could reduce state tax revenues in the long run. It is also argued that the proposed additional tax would result in increases in retail prices of petroleum products and natural gas. Other opponents may argue that increased financial aid is not needed or that it is preferable to rely less on public resources to fund higher education.