



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

LAWRENCE G. WASDEN

October 30, 2015

The Honorable Lawrence Denney
Idaho Secretary of State
Statehouse
VIA HAND DELIVERY

RE: Certificate of Review
Proposed Initiative Amending the Idaho Sales Tax Statutes

Dear Secretary of State Denney:

An initiative petition was filed with your office on October 7, 2015. Pursuant to Idaho Code § 34-1809, this office has reviewed the petition and prepared the following advisory comments. Given the strict statutory timeframe in which this office must review the petition, our review can only isolate areas of concern and cannot provide in-depth analysis of each issue that may present problems. Further, under the review statute, the Attorney General's recommendations are "advisory only." The petitioners are free to "accept them in whole or in part." The office offers no opinion with regard to the policy issues raised by the proposed initiative or the potential revenue impact to the state budget.

BALLOT TITLE

Following the filing of the proposed initiative, this office will prepare short and long ballot titles. The ballot titles should impartially and succinctly state the purpose of the measure without being argumentative and without creating prejudice for or against the measure. While our office prepares titles for the initiative, the petitioners may submit proposed titles for consideration. Any proposed titles should be consistent with the standard set forth above.

MATTERS OF SUBSTANTIVE IMPORT

Note: This proposed initiative is nearly identical to an initiative filed with your office on May 15, 2015, by the same petitioners. Only a few sections in that initiative have been modified in this initiative. This Office issued its Certificate of Review of that initiative on June 10, 2015. That review is applicable to the majority of the present initiative. Accordingly, this review incorporates by reference this Office's prior review, available at: <http://www.ag.idaho.gov/publications/op-guide-cert/2015/C06102015.pdf>. The two Certificates of Review should be read together.

On the whole, the changes to the initiative are modifications to existing Idaho sales and use tax exemptions.

As noted in the prior review, the petitioners will need to revise the proposal to include the most recent version of the Idaho Code (i.e., Section 7, modified since the last review, but still not containing the complete code section, Idaho Code § 63-3613; Section 25 which contains an incomplete version of Idaho Code § 63-3622O; and Section 12 needs to add subsection (p) to Idaho Code § 63-3621).

The proposed amendment in Section 8 raises a question of completeness. The proposal contains a new term ("services") and provides its definition (Section 8), and includes services within the meaning of "sales" in Idaho Code § 63-3612 (see Section 6). This iteration of Section 8 provides a new list of services that are included within the meaning of the term "services," including "Information Services," "Social Services," and "Transportation Services." They are denominated with capital letters, as if they are titles. It is noted, however, that terms are nowhere defined within the proposal. (Those terms are included within a larger list of services contained in Section 24, but as before, Section 24 contains no actual statutory language to be adopted.) The petitioners would do well to define these terms.

In Section 22, the petitioners seek to repeal a list of various tax exemptions. One of the statutes listed in that Section 22 is Idaho Code § 63-3621 in its entirety. However, section 63-3621 is the section of the Code that provides for the imposition of the use tax. Apparently, the petitioners' actual intent as to Idaho Code § 63-3621 is to repeal only the food and beverage sample exemption contained therein (as evidenced by the supplemental material accompanying their initiative). The portions pertaining to food and beverage samples in Idaho Code § 63-3621 are subsections (n), (o) and (p). The petitioners are aware that Section 22 should be revised to indicate that the repeal in section 63-3621 is limited those subsections. In turn, and

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to be consistent, Section 12 should be revised to strike through subsections (n), (o) and (p) of Idaho Code § 63-3621.

CERTIFICATION

I HEREBY CERTIFY that the enclosed measure has been reviewed for form, style, and matters of substantive import. The recommendations set forth above have been communicated to the Petitioners via a copy of this Certificate of Review, deposited in the U.S. Mail to Betsy McBride, League of Women Voters of Idaho, P. O. Box 7018, Boise, Idaho 83714.

Sincerely,

A handwritten signature in black ink, appearing to read "Lawrence G. Wasden", written in a cursive style.

LAWRENCE G. WASDEN
Attorney General

Analysis by:

David B. Young
Deputy Attorney General