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MEMORANDUM

January 30 , 2004

TO: Donald A. Perl, Andres Guerrero, and Christina Kauffman

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed Initiative Measure 2003-2004 #83, Concerning the Colorado Student Assessment Program

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.

Special Note

Earlier versions of this initiative, Proposal Number 2003-04 #72, Proposal Number 2003-04 #74, and Proposal Number 2003-04 #81 submitted by the same proponents, were the subject of memoranda dated November 26 and December 19, 2003, and January 14, 2004, respectively. Hearings were held on December 2 and December 22, 2003, and January 16, 2004, to address the earlier memoranda. The comments and questions raised in this memorandum will be limited so as not to duplicate comments and questions that were addressed at the earlier hearings unless it is necessary to fully address the issues in the revised measure. However, the comments and questions that have not been addressed by changes in the

proposal continue to be relevant and are hereby incorporated by reference in this memorandum.

Purposes

The major purposes of the proposed initiative appear to be:

1. To repeal the following provisions of the Colorado Revised Statutes:
 - a. Part 4 of article 7 of title 22;
 - b. Part 3 of article 11 of title 22; and
 - c. Sections 22-7-603.5 (1) (a) (V), 22-7-604, 22-7-604.5 (3), 22-7-605 (4) (b) (II) (C), (7), (8) (d), and (8) (e), 22-7-611 (1) (a), 22-11-104 (2) (a) (I), and 26-6.5-106 (2) (b);
2. To amend certain Colorado statutes to eliminate references to academic performance ratings;
3. To amend certain Colorado statutes to replace references to receiving unsatisfactory academic performance ratings with references to being below comparable neighborhood schools;
4. To change references in the statutes pertaining to the school readiness child care subsidization program to refer to schools whose demographics consist of at least seventy percent students who are eligible for free or reduced-cost lunch rather than schools that receive unsatisfactory or low academic performance ratings;
5. To authorize the Revisor of Statutes to repeal and amend the sections of Colorado statutes specified in the measure and to make amendments or deletions consistent with the appeals and amendments of this proposal.

Comments and Questions

The form and substance of the proposed initiative raise the following comments and questions:

Technical questions:

1. Generally in amending clauses, because there may be more than one paragraph (b) for instance, reference is made to the subsection as well as the paragraph of subsection. In the amending clause for section 2 of the proposal, the measure refers to "(2) (b) (III) (A), (B), (IV),". For clarity, the amending clause would normally refer to "(2) (b) (III) (A), (2) (b) (III) (B), (2) (b) (IV)". Similar references are made in sections 4, 5, and 6 of the proposal. Would the proponents consider changing the references to include the subsections to be amended?
2. The amending clause in section 4 of the proposal does not refer to subsection (2) of 22-7-603.5 although it is amended in the text. Would the proponents consider adding that reference?
3. The amending clause in section 9 of the proposal refers to all of part 3 of article 30.5 of title 22, but only subsection 22-30.5-301 (1) is contained in the proposal. Do the proponents intend only

to amend that subsection or the entire part?

4. The portion of statute that ends with a colon is generally referred to as the introductory portion. In section 10 of the measure, the proposal amends the introductory portion to section 26-6.5-106 (6) and paragraph 26-6.5-106 (6) (a). The amending clause for those changes would normally read: "the introductory portion to 26-6.5-106 (6), 26-6.5-106 (6) (a),". Would proponents consider using the standard language for amending clauses?
5. Generally, when language is amended in a portion of the section following an introductory portion, the introductory portion is included. For instance in section 2 of the proposal, both subsection (2) and paragraph (b) have introductory portions as follows:

- (2) As used in this section, unless the context otherwise requires:
- (b) "Eligible student" means a student:

Would the proponents consider adding the introductory portion language to sections 22-1-122 (2), (2) (b), and (6) (a), 22-7-604.5 (1) and (1) (a), 22-7-605 (4), 22-11-104 (2), and 26-6.5-106 (4) (a) (I)?

6. In section 2 and section 7 of the proposal, the proponents have included language in parenthesis. Generally, statutes do not include explanatory language in parenthesis. Would the proponents consider using the phrase "BELOW OTHER SCHOOLS WITHIN THE SEVENTY-FIVE MILE RADIUS USED TO COMPARE SCHOOLS PURSUANT TO SECTION 22-7-605 (4) (C)"?
7. In section 3 of the proposal, do the proponents intend to include a period following the word performance just before the language in strike type?
8. In section 6 of the proposal in sub-subparagraph (4) (b) (II) (A), do the proponents intend to have the closing quotation mark appear following "EDUCATORS"?
9. In section 11 of the proposal did the proponents intend the Revisor of Statutes to make the statutes consistent with the *repeals* and amendments of this proposal?
10. In several places, existing words in the statutes appear to be missing from the proposal. Do the proponents intend to omit those words or were they an oversight?

Substantive questions:

1. In Proposal Number 2003-04 #81, the proponents included the repeal of section 22-7-605 (2) (II) (b). In section 1, no mention is made of a repeal of this provision in subsection 22-7-605 (2). Did the proponents intend to leave out that reference?

2. In section 6 of the proposal, the last sentence in section 22-7-605 (1) does not appear to read as a coherent sentence. How do the proponents intend that sentence to read?