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MEMORANDUM

December 17, 2003

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

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed Initiative Measure 2003-2004 #74, 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

An earlier version of this initiative, Proposal Number 2003-04 #72 submitted by the same proponents, was the subject of a memorandum dated November 26, 2003. A hearing was held on December 2, 2003, to address the earlier memorandum. 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 hearing 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 30.5 of title 22; and
 - c. Sections 22-7-504, 22-7-603.5, 22-7-603.7, 22-7-604, 22-7-605, 22-7-609, 22-7-610, and 22-7-611.
2. To authorize the Revisor of Statutes to prepare conforming amendments repealing references to the repealed provisions of statute.

Comments and Questions

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

Technical questions:

1. Generally, when a portion of the statutes is repealed, reference is just made to the statutory citation for the repealed portion without any additional explanation. In sections 2 and 3 of the proposed initiative, you have made reference to what the section being repealed does. Would the proponents consider removing these references?
2. Sections 1 through 3 of the proposed initiative could be combined into one section to read something like:

"SECTION 1. Repeal. Part 4 of article 7 of title 22, part 3 of article 30.5, and sections 22-7-504, 22-7-603.5, 22-7-603.7, 22-7-604, 22-7-605, 22-7-609, 22-7-610, 22-7-611, Colorado Revised Statutes, are repealed."

Would the proponents consider combining all of the repealed provisions into one section?

3. For historic purposes, it may be helpful to have the direction to the Revisor of Statutes appear in the Colorado Revised Statutes. This would require the addition of an amending clause in the proposed section 4 similar to the following:

"SECTION 4. Article 1 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:"

Examples of statutory language giving authority to the Revisor of Statutes may be found in sections 8-45-123, 24-50.3-106, and 25-1-101.5, C.R.S. Also, if placed in statute, reference should be made to the statutory provisions being repealed rather than a of the proposal.

Would the proponents consider making the direction to the Revisor of Statutes part of the revised statutes?

Substantive questions:

1. By repealing all of section 22-7-504, C.R.S., the proposed initiative would eliminate all references to individual literacy plans. Is it the proponents' intent to eliminate all references to individual literacy plans or to eliminate just the use of the state standards for assessing the students in kindergarten through third grade?
2. Similarly, by repealing all of section 22-7-605, C.R.S., the proposed initiative would eliminate all references to the school accountability report. Is it the proponents' intent to eliminate the school accountability report and all references to it or to eliminate just references in the report to the results of CSAP assessments?
3. Similarly, by repealing all of section 22-7-611, C.R.S., the proposed initiative would eliminate the closing the achievement gap program. Is it the proponents' intent to eliminate the program or to eliminate just the use of the CSAP results for determining the eligibility of a school under the program?
4. The following sections of statute appear to refer or rely upon provisions that would be repealed under the proposed initiative. For each, would the proponents anticipate that the Revisor of Statutes would amend or repeal the provision:
 - a. 22-1-122, C.R.S., Transportation token program?
 - b. 22-7-604.5, C.R.S., Alternative education campuses?
 - c. 22-7-609.5, C.R.S., School improvement grant program?
 - d. 22-11-104, C.R.S., Accreditation indicators?
 - e. Part 3 of article 11 of title 22, C.R.S., Colorado school awards program?
 - f. 22-6.5-106, C.R.S., School readiness child care subsidization program?
5. Article V, sec. 1. (5.5) of the Colorado constitution provides that "No measure shall be proposed by petition containing more than one subject, . . .". The current proposal repeals not only the Colorado student assessment program, but also provisions for the school accountability reports. What do the proponents believe is the single subject of this proposal?