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MEMORANDUM

August 31, 2010

TO: Page Penk and Chester Penk

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2011-2012 #10, concerning Impeachment of Supreme Court Justice Roberts

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.

Purposes

The major purposes of the proposal appear to be:

1. To call for the impeachment of United States Supreme Court Chief Justice Roberts on the grounds of denying a jury trial to Page Penk in the case of United States v. Penk, criminal case no. 07-po-01242-CBS; and
2. To call for the impeachment of United States Supreme Court Chief Justice Roberts on the grounds of imposing taxation without representation of a jury trial on Page Penk.

Substantive Comments and Questions

The substance of the proposed initiative raises the following comments and questions:

1. The language submitted by the proponents does not include an amendment to either the Colorado Constitution or the Colorado statutes. The language calls for the impeachment of United States Supreme Court Justice Roberts on two counts and sets forth a timeline of events that is apparently intended to provide the basis for the impeachment action. Under section 1 of article V of the Colorado Constitution, the people reserve to themselves the "power to propose laws and amendments to the constitution and to enact or reject the same at the polls..." The Colorado Constitution does not address or reserve any power to propose the impeachment of United States Supreme Court justices. Under what authority are the proponents submitting this proposal?

2. Under section 2 (5) of article I of the United States Constitution, the United States House of Representatives has the sole power of impeachment. Under section 3 (6) of article I of the United States Constitution, the United States Senate has the sole power to try impeachments. Generally, the impeachment process begins with introduction by a United States Representative of a resolution for impeachment in the United States House of Representatives. How do the proponents see that the proposed language would accomplish this result?