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MEMORANDUM

February 4, 2014

TO: Mike Callicrate and Angela Smith

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2013-2014 #64, concerning the Care of Livestock Animals

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.

This initiative was submitted with a series of initiatives including proposed initiatives 2013-2014 #64 to 67. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memoranda for proposed initiatives 2013-2014 #59 to 62, which were substantially similar, except as necessary to fully understand the issues raised by the revised proposed initiative. Comments and questions addressed in those other memoranda may also be relevant, and those questions and comments are hereby incorporated by reference in this memorandum.

Purpose

The major purpose of the proposed amendment to the **Colorado Revised Statutes** appears to be to repeal the exemption of accepted animal husbandry practices used in the care of companion and livestock animals from the animal cruelty statutes.

Technical Comments

The following comments address technical issues raised by the form of the proposed initiative. These comments will be read aloud at the public meeting only if the proponents so request. You will have the opportunity to ask questions about these comments at the review and comment meeting. Please consider revising the proposed initiative as suggested below.

1. It is standard drafting practice to insert a left tab at the beginning of the first line of each new section, subsection, paragraph, or subparagraph, including amending clauses and section headings.
2. The correct format for an amending clause that amends existing law in the Colorado Revised Statutes should be used. See comment 3 for an example.
3. Because only 18-9-201.5 (1), Colorado Revised Statutes, is being amended in the proposed initiative, it is unnecessary to include subsections (2), (3), and (4) in the text of the proposed initiative. The correct format for the amending clause is:

SECTION 1. In Colorado Revised Statutes, 18-9-201.5, **amend** (1) as follows:

4. When amending a section of the Colorado Revised Statutes, existing law should be shown as it appears in the official copy of the Colorado Revised Statutes. An explanation of standard drafting practices and an example follow:
 - a. In current law, the headnote for section 18-9-201.5, Colorado Revised Statutes, ends with a period, which should be included in the proposed initiative.
 - b. In current law, subsection (1) immediately follows the headnote on the same line rather than appearing on a separate line from the headnote.
 - c. In current law, the statutory section number only appears at the beginning of the section and is not repeated at the beginning of each

subsection, paragraph, or other subsequent subdivisions in that section.

- d. Statutory provisions are divided into component parts using the following structure: Subsection, or, for example, "(1)"; followed by paragraphs, or, for example, "(a)"; followed by subparagraphs, or, for example, "(I)"; ending with sub-subparagraphs, or, for example, "(A)."
- e. In current law, subsection numbers should be typed in regular typeface (no bold, italics, etc.). The text follows immediately after (no punctuation should follow the subsection numbering).
- f. When amending a section of the Colorado Revised Statutes, small caps are used to show new language (THIS IS AN EXAMPLE OF SMALL CAPS.). Note that small caps are different than caps lock. Current law should be in lower-case letters (like this). Current law being deleted is shown in lower case and strike type (~~like this~~).
- g. The standard drafting practices outlined above would appear as follows:

18-9-201.5. Scope of part 2. (1) Nothing in this part 2 shall affect accepted animal husbandry practices utilized by any person ~~in the care of companion or livestock animals or~~ in the extermination of undesirable pests as defined in articles 7, 10, and 43 of title 35, C.R.S.

5. The effective date in section 2 of the proposed initiative says "This initiated statute shall become effective" However, section 18-9-201.5 is already effective as current law. Only the changes to the current law become effective upon passage of an initiated measure. Instead, consider using: "Section 18-9-201.5 (1), Colorado Revised Statutes, as amended, is effective"

Substantive Comments and Questions

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

1. Article V, section 1 (5.5) of the Colorado constitution requires all proposed initiatives to have a single subject. What is the single subject of the proposed initiative?

2. Because you are striking the reference to livestock animals in section 18-9-201.5 (1), you might also want to strike "and 43 of title 35" from the sentence as well because it concerns the definition of livestock animals.
3. You might consider making the changes you've made to section 18-9-201.5 (1) to the language of section 35-42-104 (1), Colorado Revised Statutes, which provides the same language.
4. References to "accepted animal husbandry practices" also appear in statute in sections 18-9-201 (5) and 19-2-918.5 (5), Colorado Revised Statutes, excepting "accepted animal husbandry practices" from prohibited practices. Do you want to amend those statutes to delete companion and livestock animals from the exception for "accepted animal husbandry practices"?
5. "Accepted animal husbandry practices" is not defined in statute anywhere. You might consider defining it in section 18-9-201 (5), Colorado Revised Statutes, as new subsection (1.5).