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MEMORANDUM

September 5, 2007

TO: Ryan Frazier and Julian Jay Cole

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2007-2008 #41, concerning prohibition on certain conditions of employment

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.

An earlier version of this initiative was the subject of a memorandum dated June 28, 2007, Proposal 2007-2008 #38 was discussed at a hearing on July 10, 2007. 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 amendment appear to be:

1. To prohibit, as a condition of employment, a requirement that a person to be a member of a

labor organization;

2. To prohibit, as a condition of employment, a requirement that a person pay any moneys to a labor organization or to any other third party in lieu of payment to a labor organization; and
3. To create a misdemeanor criminal penalty for any person who violates any provision of the section.

Comments and Questions

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

Technical questions:

To conform with standard drafting practices, would the proponents consider:

1. In subsection (1), changing the order of the period and the ending quotation mark?
2. In subparagraph (I) of paragraph (a) of subsection (2), changing the word "OR" to "OF"?

Substantive questions:

1. Subsection (4) states that the initiative shall apply to all union employment contracts after the effective date of the section. Is it the intent of the proponents to have the proposed measure apply to union contracts as well as employment contracts? If so, would the proponents consider adding the word "AND" after the word "UNION" to indicate the types of contracts covered?