

STATE OF COLORADO

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MEMORANDUM

November 20, 2007

TO: Page Penk and Chester Penk

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2007-2008 #50, concerning the impeachment of William Jefferson Clinton

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 proposed amendment appear to be:

1. To amend the Colorado constitution so as to impeach William Jefferson Clinton for authorizing the United States military, based upon his "explicit assurances from the highest levels of government" to them, to use a "Superman" camera called advanced synthetic aperture radar or millimeter wavelength radar that can take pictures through the roof of our bedrooms and bathrooms and sexual partners, which camera was used against Colorado homes in April of 1997.

Comments and Questions

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

Technical questions:

1. To conform to standard drafting practices, would the proponents specify by what means they intend to amend the Colorado constitution (i.e., by adding a new article, part, or section), and further specify, with the use of "SMALL CAPITAL LETTERS", the language they intend to add to the constitution? To further conform to standard drafting practices, would the proponents spell out "United States" and capitalize only proper nouns? For example, the proponents could add the following lines after the enacting clause:

"The constitution of the state of Colorado is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE ____ Impeachment of William Jefferson Clinton

Section 1. THE PEOPLE OF THE STATE OF COLORADO HEREBY IMPEACH WILLIAM JEFFERSON CLINTON FOR AUTHORIZING THE UNITED STATES MILITARY, BASED ON HIS "EXPLICIT ASSURANCES FROM THE HIGHEST LEVELS OF GOVERNMENT" TO THEM, TO USE A "SUPERMAN" CAMERA CALLED ADVANCED SYNTHETIC APERTURE RADAR OR MILLIMETER WAVELENGTH RADAR THAT CAN TAKE PICTURES THROUGH THE ROOF OF OUR BEDROOMS AND BATHROOMS AND SEXUAL PARTNERS, WHICH CAMERA WAS USED AGAINST COLORADO HOMES IN APRIL OF 1997."

2. The proponents have added a footnote to the proposed initiative citing an article from the *New York Times* newspaper published on November 5, 2007. Is the addition of this footnote intended to have any legal force or effect? If so, would the proponents specify how this footnote would be referenced in the Colorado constitution? If not, would the proponents remove the footnote?

Substantive questions:

1. Article V, section 1 (5.5) of the Colorado constitution requires each initiative to have a single subject. What is the single subject of the proposed initiative?
2. The text of the proposed initiative appears to be a ballot question rather than actual language that would be included in the Colorado constitution. If the proposed initiative were approved by the people, would any language actually be added to the Colorado constitution? If not, would the general assembly be required to submit a constitutional amendment to the people that would call for the impeachment of William Jefferson Clinton?
3. A leading law dictionary defines impeachment as "the act (by a legislature) of calling for the removal from office of a public official, accomplished by presenting a written charge of the official's alleged misconduct; esp., the initiation of a proceeding in the United States House of Representatives against a federal official, such as the president or judge". Typically, impeachment by the United States House of Representatives is analogous to indictment in trial court proceedings, whereas trial in the United States Senate is equivalent to trial before a judge and jury. If William Jefferson Clinton is impeached, would the proponents specify in the proposed initiative whether they intend that the United States Senate then proceed with a subsequent trial against him?
4. According to article II , section 4 of the United States constitution: "The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors." Currently, William Jefferson Clinton does not serve in the capacity of any civil officer of the United States and as such is incapable of being impeached by the United States House of Representatives. If the proponents intend that William Jefferson Clinton be tried for his alleged crimes, would the proponents specify that such indictment and trial take place in a court of competent jurisdiction?
5. What legal force and effect do the proponents believe a provision in the Colorado constitution will have upon the United States congress' power and authority to initiate impeachment proceedings? Assuming such a provision will be without legal force and effect, what is the proponents' intent in adding this provision to the Colorado constitution?
6. Are the proponents aware of any legal authority supporting the proposition that the people of the state of Colorado, by amendment to the Colorado constitution, have the legal power and authority to impeach a citizen who is not a civil officer of the United States in accordance with the proposed initiative? If so, please describe such authority.
7. Would the general assembly, the governor, or any other entity of state government be required to take any action upon the adoption of the proposed initiative? For example, would the general assembly be required to enact implementing legislation or memorialize congress to take action? If so, please explain.
8. What is the effective date of the proposed initiative? Unless otherwise specified, under

section 1 (4) of article V of the Colorado constitution, an initiative takes effect on the date of the governor's proclamation. Would the proponents specify an internal effective date for the proposed initiative?