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MEMORANDUM

To: Suzanne Taheri and Michael Fields

From: Legislative Council Staff and Office of Legislative Legal Services

Date: April 1, 2025

Subject: Proposed initiative measure 2025-2026 #61, concerning education classroom funding

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 and questions to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the directors of Legislative Council and the Office of Legislative Legal Services is to provide comments and questions intended to aid designated representatives, and the proponents they represent, in determining the language of their proposal and to avail the public of the contents of the proposal. Our first objective is to be sure we understand your intended purposes of the proposal. We hope that the comments and questions in this memorandum provide a basis for discussion and understanding of the proposal. Discussion between designated representatives or their legal representatives and employees of the Colorado Legislative Council and the Office of Legislative Legal Services is encouraged during review and comment meetings, but comments or discussion from anyone else is not permitted.

Purposes

The major purpose of the proposed amendments to the Colorado Revised Statutes appears to be dedicating at least 66 percent of K-12 education spending to costs directly linked to classroom funding.

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. What will be the effective date of the proposed initiative?
3. The following comments and questions relate to the declaration language of the proposed initiative:
 - a. What do the proponents mean by "administrative costs"? Would the proponents consider defining or elaborating on the term?
 - b. What do the proponents mean by "direct classroom expenses"? Are direct classroom expenses the same as the "classroom funding" identified in section 22-54-148 of the proposed initiative?
 - c. What do the proponents mean by "taxes levied for education"? Is it the proponents' intent to reference local property tax collections here? Is the declaration exclusively concerned with the allocation of locally generated tax revenues? Or is the proponents' intent to reference additional sources of revenue that a school district may receive under Colorado's school finance formula? Would the proponents consider revising for clarity?
4. The following comments and questions relate to section 22-54-148 (1) of the proposed initiative. Section 22-54-148 (1) requires a minimum of 66 percent of per pupil funding that is sent to a school district be spent directly on classroom funding.
 - a. Article IX, section 15 of the Colorado Constitution establishes the principle of local control, granting local school boards control of instruction in the public schools of their respective districts. How do the proponents intend for the proposed initiative to interact with the local control provision of the Colorado Constitution?
 - b. Are school districts the only type of local education provider subject to the proposed initiative's funding mandate? If so, how do the proponents intend for the proposed initiative to relate to the requirement for a

"thorough and uniform" system of public schools set forth in article IX, section 2 of the Colorado Constitution?

- c. How did the proponents arrive at the "66% of per pupil funding" threshold for the proposed initiative's mandate? Why did the proponents select "per pupil funding" as the basis for this calculation?
 - d. What is the proponents' intent regarding enforcement of the proposed initiative's funding mandate? What is the consequence if a school district fails to meet the 66 percent threshold? Would the proponents consider clarifying their intent with respect to any enforcement activity or penalties?
5. The following comments and questions relate to section 22-54-148 (2) of the proposed initiative. Section 22-54-148 (2) addresses the scope of the term "classroom funding."
- a. Do the proponents intend section 22-54-148 (2) to serve as a definition of the term "classroom funding"? The use of the word "includes" suggests the proponents may intend for the items in subsections (2)(a) to (2)(d) to be illustrative examples rather than an exhaustive list of elements in a defined term. If the proponents intend for subsection (2) to be a defined term, the following is the standard drafting language used for creating a definition:

As used in this section, unless the context otherwise requires, classroom funding means:

If the proponents' intent is to define the term "classroom funding," would the proponents consider revising the introductory portion of subsection (2) to conform to the standard drafting language?
 - b. Subsections (2)(a), (2)(b), and (2)(c) reference salaries for different types of school personnel involved in classroom instruction. What do the proponents mean by "salaries"? Does the term encompass benefits or other forms of compensation?
 - c. Subsection (2)(d) references classroom supplies and resources "used by teachers and students." Is it the proponents' intent to exclude supplies and resources used by the classroom aides and special education professionals referenced in subsections (2)(b) and (2)(c),

respectively? If not, would the proponents consider revising for uniformity?

Technical Comments

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

1. In the declaration language, there is an unnecessary comma after "salaries."
2. It is standard drafting practice to number each bill section that is being added, amended, or repealed with a section number (e.g., SECTION 1., SECTION 2.) that appears before the amending clause. The proposed initiative has "**SECTION 1.**" listed twice. Additionally, you do not need to use the words "title" and "article" in the amending clause. For example:

SECTION 2. In Colorado Revised Statutes, **add** 22-54-148 as follows:

3. The headnote for section 22-54-148 within the proposed initiative has the words "Mandate," "Classrooms," and "Teachers" capitalized. However, it is only necessary to capitalize the first word in the headnote. Additionally, it is standard drafting practice to include a bolded period at the end of a headnote.
4. When referencing fiscal years or academic years in the Colorado Revised Statutes, it is common drafting practice to omit the first two digits of the second year in a range. Would the proponents consider revising "2027-2028 school year" as it appears in proposed section 22-54-148 (1) to read "2027-28 school year"?
5. For purposes of this statutory initiative, the word "shall" is defined in section 2-4-401 (13.7), C.R.S., and it means "that a person has a duty." The related word "must," which is defined in section 2-4-401 (6.5), C.R.S., "means that a person or thing is required to meet a condition for a consequence to apply." Furthermore, "'must' does not mean that a person has a duty." Would the proponents consider changing the "shall" in section 22-54-148 (1) to "must"?