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## MEMORANDUM

TO: Mike Spalding and David Ottke

FROM: Legislative Council Staff and Office of Legislative Legal Services

DATE: November 25, 2015

SUBJECT: Proposed initiative measure 2015-2016 #54, concerning Public  
Accountability of Officers

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 directors of 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 proposed initiative, proposed initiative 2015-2016 #46, was the subject of a memorandum dated October 23, 2015, which was discussed at a public meeting dated October 27, 2015.** (That memorandum, in turn, incorporated by reference comments and questions raised in proposed initiatives 2015-2016 #29, #30, and #36.) The substantive comments and questions and technical comments raised in this memorandum will not include comments and questions that were addressed at the

earlier meetings, except as necessary to fully understand the issues raised by the revised proposed initiative. **However, the prior comments and questions that are not restated here and that continue to be relevant and are hereby incorporated by reference in this memorandum.**

## **Purposes**

The major purposes of the proposed amendment to the Colorado constitution appear to be:

1. To provide mechanisms by which all state and local legislative and executive elective officials and all state and local judicial officers are accountable to voters;
2. To reestablish the recall process for all state and local legislative and executive elective officials; and
3. To subject all judicial officers to retention elections every four years or fewer.

## **Substantive Comments and Questions**

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

1. Subsection (11) of section 2 of the proposed initiative provides that "expenditures for a recall... shall never be identified, reported, or limited." Do the proponents mean this provision to apply only to expenditures made by recall proponents? As currently written, "expenditures for a recall" could include monies expended by public entities conducting a recall.
2. Similarly, section 3 of the proposed initiative states that "[d]onations and expenditures against retention shall never be identified, reported, or limited." What constitutes donations and expenditures against retention? By whom?
3. Why do both of the above-cited provisions apply only to pro-recall and anti-retention efforts?
4. To what extent may anti-recall or pro-retention efforts be subject to identification and reporting requirements and limitations?

## **Technical Comments**

There are no new technical comments raised.