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Colorado General Assembly

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MEMORANDUM

TO: Suzanne Taheri and Steven Ward

FROM: Legislative Council Staff and Office of Legislative Legal Services

DATE: February 27, 2023

SUBJECT: Proposed initiative measure 2023-2024 #19, concerning student funding for K-12 education.

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.

This initiative was submitted with a series of initiatives including proposed initiative 2023-2024 #18. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memorandum for proposed initiative 2023-2024 #18, except as necessary to fully understand the issues raised by this proposed initiative. However, the prior comments and questions that are not restated here continue to be relevant and are hereby incorporated by reference into this memorandum.

Purposes

The major purpose of the proposed amendment to the Colorado constitution appears to be:

1. To establish a right to school choice for families;
2. To require taxpayer funding for education to be spent equally for each child within a school district; and
3. To establish a right for families to direct taxpayer funding to schooling of their choice.

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. Section 1 of the proposed initiative states that "taxpayer funding of education should be spent equally for each child within a district."
 - a. Is it the proponents' intent that every child receive the exact same amount of funding for that child's education, notwithstanding the uniqueness of the child, including, but not limited to, whether the child is eligible for special education services, requires English language proficiency programs, requires transportation, attends the school for a portion of the day, or is eligible for any categorical program?
 - b. Is it the proponents' intent in using "should" that this provision is optional?
 - c. Is the proponents' intent that this provision applies to both the state share and local share of a district's total program?
 - d. What constitutes "each child within a district"? Is the proponents' intent that this apply to children who are ineligible to enroll in school because they are under the minimum age requirement? Is the proponents' intent that this apply to children who reside in a district but who enroll in a nonpublic education option or an institute charter school? What is the

applicable amount of taxpayer money for a student who resides in one school district but is enrolled in a school located in another school district?

4. Section 2 of the proposed initiative states that "[p]arents and guardians have the right to direct per pupil funding to the schooling of their choice."
 - a. Article IX, section 17 of the Colorado constitution requires the statewide base per pupil funding for public education to grow annually at a rate set by the General Assembly that is at least equal to the rate of inflation. Under the proposed initiative, is it the proponents' intent that "per pupil funding" means the statewide base per pupil funding as it currently applies to public education?
 - b. Is it the proponents' intent that this right requires dedicating taxpayer funding to parents and guardians whose children are enrolled in nonpublic education? If so, is it the proponents' intent that the per pupil funding provided to children enrolled in nonpublic education match the statewide base per pupil funding amount that is currently required for public education pursuant to article IX, section 17 of the Colorado constitution? If so, where will the new funds required to satisfy the new per pupil funding requirement for students enrolled in nonpublic education come from?
 - c. For whom do parents and guardians have the right to direct per pupil funding?
 - d. What constitutes "schooling"? Is it the proponents' intent that a parent or guardian have discretion to direct what curriculum, books, staffing, assignments, and assessments the school may purchase or allocate resources to?

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.

No further comments.

