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Colorado General Assembly

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MEMORANDUM

TO: Marc Jacobson and Roberto Luis Meza
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: March 18, 2022
SUBJECT: Proposed initiative measure 2021-2022 # 83, concerning the establishment of a new school meals program

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 initiatives 2021-2022 ## 84 to 88. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memoranda for proposed initiatives 2021-2022 ## 84 to 88, except as necessary to fully understand the issues raised by the revised proposed initiative. Comments and questions addressed in those other memoranda may also be relevant, and those questions and comments are incorporated by reference in this memorandum.

Purposes

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

1. To establish the "Healthy School Meals for All Program" to provide free meals in public schools for all students;
2. To increase wages or provide stipends for individuals whom the participating school food authority employs to directly prepare and serve food for school meals;
3. To create the local school food purchasing technical assistance and education grant program to issue a grant to a statewide nonprofit organization to develop and manage a grant program to assist with the promotion of Colorado grown, raised, or processed products to participating school food authorities; and
4. To collect additional revenue to fund the "Healthy School Meals for All Program" by increasing federal taxable income for the purposes of calculating state taxable income for taxpayers who claim itemized deductions and who have federal adjusted gross income in the income tax year equal to or exceeding two hundred fifty thousand dollars:
 - a. For a taxpayer who files a single return and the amount by which itemized deductions deducted from gross income exceed twenty thousand dollars; and
 - b. For taxpayers who file a joint return and the amount by which itemized deductions from gross income exceed twenty-six thousand dollars.

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. The following questions concern the implementation of language in the proposed initiative from SB22-087:
 - a. How would this initiative interact with SB22-087 if SB22-087 passes in its current form?

- b. If SB22-087 becomes law, how do the proponents plan on proceeding with the proposed initiative?
 - c. What do the proponents plan to do if an amended version of SB22-087 passes?
 - d. Would the proposed initiative in its current form violate sec. 24 of article V of the Colorado constitution if SB22-087 passes?
3. The "[p]urposes and findings" section, set forth in section 22-82.9-202, states that the "Healthy School Meals for All Program" is expected to commence in school year 2024-25. If the program is expected to begin in school year 2024-25, why do the proponents state in section 22-82.9-204 (1)(a) that "[t]he program is effective beginning the first full budget year after the state of Colorado is certified [by the federal government] to participate in the demonstration project for direct certification for children receiving Medicaid benefits...?"
 4. Are the advisory committee and the local food purchasing grants created pursuant to section 22-82.9-205; the wage or stipend increase created pursuant to section 22-82.9-206; and the local school food purchasing technical assistance and education grant program created pursuant to section 22-82.9-207 contingent on the effective date of the "Healthy School Meals for All Program"? Or will those programs become effective January 1, 2023?
 5. What do the proponents mean by "advisory 12 committee" in the headnotes for section 22-82.9-205?
 6. Concerning section 6 of the proposed initiative:
 - a. Are the "tax policy changes to this subsection" related to the "Healthy School Meals for All Program" in part 2 of article 82.5 of title 22? Would the proponents consider a cross reference to part 2 of article 82.5 of title 22 in section 39-22-104 (3)(p)(III)?
 - b. What is meant by the "tax policy changes to this subsection" in proposed section 39-22-104 (3)(p)(III)?
 - c. How are the "tax policy changes" calculated if section 39-22-104 (3)(p) is amended by a future petition or by legislation?
 - d. How will the "Healthy School Meals for All Program" be funded if the "tax policy changes" are repealed?
 - e. What if the "tax policy changes" are repealed and then reinstated?

- f. What is meant by "the costs of the healthy school meals for all program" in section 39-22-104 (3)(p)(III)? Does this include the direct and indirect costs incurred by the department in implementing the program?
- g. What happens if the "tax policy changes" in section 39-22-104 (3)(p)(III) exceed the costs of the proposed healthy school meals for all program? Is the process outlined in section 22-82.9-209 (2) followed?
- h. How will the costs of the program be covered in 2023, before the state collects the revenue generated by the "tax policy changes" in section 39-22-104 (3)(p)(III)?
- i. How is it determined whether a program is a "successor program" to the proposed healthy school meals for all program?
- j. If the "Healthy School Meals for All Program" ceases to exist, do the "tax policy changes" in section 39-22-104 (3)(p) apply for the tax year when the program ceases to exist?
- k. What happens to the revenue generated by the "tax policy changes" if the state of Colorado is not certified to participate in the demonstration project for direct certification for children receiving Medicaid benefits operated pursuant to 42 U.S.C. sec. 1758 (b)(15)?

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.

- 1. Although the text of the proposed initiative should be in small capital letters, use an uppercase letter to indicate capitalization where appropriate. The following should be large-capitalized:
 - a. The first letter of the first word of each sentence;
 - b. The first letter of the first word of each entry of an enumeration paragraphed after a colon; and
 - c. The first letter of proper names.

2. When adding a new part, the word "PART," as well as the short title, should be in all capital letters, not small capitals.