

# STATE OF COLORADO

## Colorado General Assembly

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### MEMORANDUM

April 20, 2004

TO: Roberta Morgan and Jill McNeil

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2003-2004 #150, concerning gambling at horse and dog tracks

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 your proposed amendment, a copy of which is attached.

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 drafting the language of their proposal and to make the public aware of the contents of the proposal. Our first objective is to be sure we understand your intent and objective in proposing the amendment. We hope that the statements and questions in this memorandum will provide a basis for discussion and understanding of the proposal.

#### Purposes

The purpose of the proposed amendment appears to be to prohibit the installation of video lottery terminals (VLTs) or slot machines at horse or dog racing tracks except upon both a statewide vote and a vote of the local jurisdiction in which such a track is located.

#### Comments and Questions

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

Technical questions:

1. The amending clause of this proposal places it in section 2 of article XVIII of the state constitution. Section 2 currently deals only with charitable gaming and the state-supervised lottery. Section 9 of article XVIII currently deals with limited gaming, including slot machines (a defined term that is used in this measure), and also contains "local option" provisions similar to the provisions of this measure requiring a vote of the local jurisdiction in which a track is located. Would the proponents consider placing the text of this measure in section 9 rather than section 2?
2. Customarily, proposals for Colorado constitutional amendments state that the "Colorado constitution", or the "Constitution of the State of Colorado", is being amended. Would the proponents consider adding the word "Colorado" before "constitution" in the amending clause?
3. Amending clauses typically end with "to read:", as in the following example:

Section 2 of article XVIII of the Colorado Constitution is amended BY THE ADDITION OF A NEW SUBSECTION to read:

Would the proponents consider making this change?

Substantive questions:

1. Like the existing Colorado constitutional provisions pertaining to limited gaming (including slot machines), this proposal requires both a local vote and a statewide vote before the regulated gambling activity may be permitted in a new geographic area. However, the order in which these votes are taken differs. This proposal appears to require local approval first, followed by statewide approval at a general election. The existing local vote provisions in article XVIII, § 9(6) of the Colorado Constitution require statewide approval first, followed by local approval within 13 months thereafter.
  - a. Is there a reason for requiring the local vote first? If not, would the proponents consider "piggy-backing" the VLT provisions onto the existing process in article XVIII, § 9(6), which already applies for slot machines?
  - b. Do the proponents foresee any conflict or confusion if this measure passes in its current form and goes into the Constitution along with article XVIII, § 9 (6)? For example, if a statewide ballot measure authorized limited gaming, including slot machines but not VLTs, in a specified area that included an existing horse track, could such limited gaming activity legally proceed so long as a local vote was held within 13 months thereafter?
  - c. Should article XVIII, § 9 (6) be amended or repealed in this measure, to avoid confusion?

2. The local vote provisions in this measure refer to "a majority of voters in the local jurisdiction" and "a majority of voters of the state", respectively. Do the proponents intend that approval of those *voting* in the election be sufficient to approve the new gambling activity, or would approval require the affirmative vote of a majority of those *eligible* to vote -- which might be more than 50% of those actually voting?
  
3. The proposal carries an effective date of January 1, 2005. However, under article V, § 1 (4) of the Colorado constitution, "measures initiated by or referred to the people ... shall take effect from and after the date of the official declaration of the vote thereon by proclamation of the governor, but not later than thirty days after the vote has been canvassed." The governor typically makes such a proclamation in mid-January. Would the proponents consider specifying an effective date sometime after January 1, 2005, or simply allowing the measure to take effect immediately upon the governor's proclamation of the election results?