

# STATE OF COLORADO

## Colorado General Assembly

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### MEMORANDUM

April 3, 2012

TO: Richard Evans and Stacie Kemp

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2011-2012 #90, concerning voter approval of slot machines

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 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.

#### Purposes

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

1. After November 6, 2012, to prohibit any person or entity within a town, city, or unincorporated portion of a county from offering for play any slot machine, including any video lottery terminal, unless:
  - a. A majority of statewide electors approve a town, city, or county in which slot machines are to be offered for play, and a majority of electors of the approved town, city, or county subsequently vote to have slot machines located within their jurisdiction;

- b. The cities and counties where slot machines are currently in use were previously authorized by voters under the limited gaming provisions of the Colorado constitution; or
- c. The slot machines are located on Indian reservations as approved by federal law.

**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. The proposed initiative is to be added to the Colorado constitution as a new section within an existing article, and the amending clause should reflect the updated drafting format adopted by the Office of Legislative Legal Services prior to the 2012 legislative session as follows:

In the constitution of the state of Colorado, **add** section 16 to article XVIII as follows:

- 2. Currently, article XVIII of the Colorado constitution has 15 sections. In order to be sequential, the proposed initiative should add section 16 to article XVIII of the Colorado constitution rather than section 17. Presumably, you have numbered this measure as section 17 so that it will follow section 16 contained in proposed initiative 2011-2012 #89. However, this is not necessary, as the numbering of the two sections will be harmonized upon publication in the event that they are both approved by the voters.
- 3. The section number and headnote should be in lowercase type rather than small capital letters.
- 4. Each component of a constitutional section should be designated as a subsection, paragraph, and so on. To conform to this standard drafting practice, please consider designating the first portion of proposed section 17 as subsection "(1)", followed by paragraphs "(a)" and "(b)". For example:

**Section 17. Voter approval of slot machines.**

- (1) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY...
  - (a) A MAJORITY OF STATEWIDE ELECTORS, AT A GENERAL ELECTION HELD DURING AN EVEN-NUMBERED YEAR...
  - (b) THE CITIES AND COUNTIES IN WHICH SLOT MACHINES ARE USED...

- 5. It is standard drafting practice to insert a left tab at the beginning of the first line of each new section, subsection, paragraph, or subparagraph, including amending clauses and section

headings. Similarly, instead of separating subsections and paragraphs by a blank line, you should simply insert a left tab at the beginning of the first line of each subsection or paragraph.

6. It is standard drafting practice to place punctuation outside of quotation marks.
7. In proposed subsection (2):
  - a. There should be a comma following the year "2012".
  - b. The internal reference in proposed subsection (2) should read: "SECTION 9 OF THIS ARTICLE".

### **Substantive Comments and Questions**

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

1. Section 1 (5.5) of article V 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? Section 1 (4) of article V of the Colorado constitution states that initiated measures "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". As drafted, the proposed initiative is effective "after November 6, 2012," which is the date of the 2012 election. However, if the governor does not issue a proclamation on the day of the vote, the measure might not actually take effect for several days or weeks. Do you foresee any complications with the use of the November 6 date in the text of the measure?
3. What are the definitions of slot machine and video lottery terminal for purposes of this section?
4. Why are you using the term slot machine? Is it your intention to rely on the definition of slot machine found in section 9 (4) (c) of article XVIII of the Colorado constitution?
5. Did you purposely not include a "city and county"?
6. Is it your intention to limit video lottery terminals to the three localities where limited gaming is permitted, unless approved by two separate votes, one statewide and one for the locality?
7. Is it your intention to effectively define video lottery terminals as a limited gaming game rather than a lottery game?
8. Is the purpose of proposed subsection (1) to allow for the expansion of limited gaming localities allowed in section 9 of article XVIII of the Colorado constitution?