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MEMORANDUM

April 2, 2014

TO: Richard Evans, Stephen Roark, and Mark Grueskin

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2013-2014 #141, concerning Prohibition on Gambling Monopolies

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.

This initiative was submitted with a series of initiatives including proposed initiatives 2013-2014 #138 to 140 and 142. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memoranda for proposed initiatives 2013-2014 #138 to 140 and 142, 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 hereby incorporated by reference in this memorandum. Only new comments and questions are included in this memorandum.

Purposes

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

1. To prohibit the state licensing authority from granting a license to conduct legalized gambling if issuance of the license would result in a licensee's monopoly on one or more types of gambling within any county; and
2. To make an exception to the prohibition for bingo, raffles, and live horse racing, including on- and off-track betting.

Technical Comments

The following comment addresses technical issues raised by the form of the proposed initiative. This comment will be read aloud at the public meeting only if the proponents so request. You will have the opportunity to ask questions about this comment at the review and comment meeting. Please consider revising the proposed initiative as suggested below.

1. Subsections (1) and (2) use the term "legalized gambling." This term is not defined in the measure, nor is it defined elsewhere in the Colorado constitution or the Colorado Revised Statutes. You may wish to consider adding a definition to clarify what "legalized gambling" encompasses.

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 is meant by "a licensee's *monopoly* on ... gambling *within any county*"? (Emphasis added.) Would the passage of this initiative require that for every type of "legalized gambling," there must be at least two licensees within a county, or none at all?
 - a. What if only one person in the county applied for a license? Would he or she have to wait until another person also applied?

- b. If there were two licensees in a county and one went out of business, would the remaining licensee then have its license revoked?
 - c. If there were two licensees in a county and one decided to amend its license to offer fewer types of legalized gambling than the other licensee offered, wouldn't the other licensee then have a monopoly on those types of gambling, resulting in the nonrenewal of the other licensee's license, thus giving the first licensee a prohibited monopoly?
3. Subsection (2) of the initiative makes exceptions for gambling on "live horse racing *including* on-track and off-track betting on such races." (Emphasis added.)
- a. Does "off-track betting" refer to simulcast activity? Is it the intent of the proponents that wagering on simulcast horse racing is exempt from the prohibition in subsection (1) but that wagering on simulcast greyhound racing is not?
 - b. Would a racetrack need to hold a live race meet of horses in order to qualify for the exemption, or does the phrase "live horse racing *including* ... off-track betting" mean "live or simulcast horse racing"?
 - c. Would a horse racetrack that carries simulcast races of both horses and greyhounds need to cease carrying simulcast races of greyhounds unless there was another simulcast facility for greyhound races operating in the same county?