

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Bruce Brown and Bill Cadman
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: February 4, 2020
SUBJECT: Proposed initiative measure 2019-2020 #257, concerning local voter approval of gaming limits in Black Hawk, Central City, and Cripple Creek

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.

Purposes

The major purposes of the proposed amendments to the Colorado constitution and Colorado Revised Statutes appear to be:

1. To remove the existing state-level bet limits on casino gambling and allow voters in Central City, Black Hawk, and Cripple Creek to establish limits of their own choosing;
2. To remove the existing limitation of casino games to poker, blackjack, slot machines, craps, and roulette and allow voters in Central City, Black Hawk, and Cripple Creek to approve other games; and
3. To specify that expenditures from the extended limited gaming fund may be made for purposes of student retention and credential completion at Colorado's public community colleges, junior colleges, and local district colleges.

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. Under section 1-40-105.5, Colorado Revised Statutes, the director of research of the legislative council is required to prepare an initial fiscal impact statement, which includes an abstract that appears on petition sections, for each initiative that is submitted to the Title Board. In preparing the statement, the director is required to consider any fiscal impact estimate prepared by the proponents.
 - a. Will you submit the initiative to the Title Board? If so, when do you intend to do so?
 - b. Are you submitting a fiscal impact estimate today? If not, do you plan to submit an estimate in the future, and if so, when do you intend to do so?
 - c. To ensure that there is time for consideration, you are strongly encouraged to submit your estimate, if any, at least 12 days before the measure is scheduled for a Title Board hearing. The estimate should be submitted to the legislative council staff at BallotImpactEstimates.ga@state.co.us.
3. Section 6 of the proposed initiative states that "These amendments shall take effect upon proclamation of the governor" after the 2020 election. Do you anticipate that the three towns will be able to obtain voter approval of new

- games and bet limits by then? If they are not able to do so, what limits, if any, will apply to the games and bets at that point?
4. Sections 4 and 5 of the proposed initiative amend the statutory authority for rules of the limited gaming control commission. Presumably, those rules would need to be amended, either immediately upon the effective date of the proposal or upon the approval of new games or bet limits by voters in the three towns. Do you wish to add language specifying a grace period or other accommodation for the commission's rule-making process?
 5. Section 3 specifies that certain gaming tax revenues should go to college programs to "improve student retention" and "increase credential completion".
 - a. Does "improv[ing]student retention" refer to lowering the dropout rate at these colleges? Is there a different or additional meaning for this phrase that you would like to provide?
 - b. Does "credential completion" refer to finishing the required number of credit hours and otherwise meeting the requirements to receive a degree? Is there a different or additional meaning for this phrase that you would like to provide?
 6. Section 4, amending section 44-30-816, Colorado Revised Statutes, and section 5, amending section 44-30-818, Colorado Revised Statutes, of the proposed initiative contain the same statutory headnote: "**Approval of rules for certain games.**" Currently, section 44-30-816 carries the headnote "**Maximum amount of bets.**" Was the change to the headnote for section 44-30-816 inadvertent or intentional? Do you wish to restore the original headnote?
 7. Sections 2, 4, and 5 of the proposed initiative refer to votes by the "voters of ... each." Must the voters of all three cities approve the respective ballot issues for other games, bet limits, or game rules to be approved? Or do the election results in a particular city govern those issues only within that city? Would the proponents consider clarifying the initiative in this respect?

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.

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1. It appears that section 1 of the proposed initiative amends article XVIII, section 9 of the state constitution, but the enacting clause omits "article XVIII." Please add "article XVIII" for clarity in your amending clause, i.e., "In section 9, article XVIII of the ..."
2. Please ensure that the amending clauses to the Colorado Revised Statutes in each section of the proposed initiative adopt one of the following standard formats:

SECTION X. In Colorado Revised Statutes, **amend/repeal/add** XX-X-XXX as follows:

SECTION X. In Colorado Revised Statutes, XX-X-XXX, **amend/repeal/add** (X)(X) as follows:

3. The capitalization of the names of "THE CITIES OF CENTRAL, BLACK HAWK, AND CRIPPLE CREEK" appears inconsistent: In section 2, they are shown in initial capitals in the 6th and 7th lines, but not in the 4th line of the statutory definition. In section 4, they are shown in initial capitals, but in section 5 they are not. Please consider making these references consistent, using initial capitals in lowercase lettering rather than small capital letters.
4. In section 3, the introductory portion of section 44-30-702 (3), Colorado Revised Statutes ("From the fund, the state treasurer shall pay:") has been omitted. Please include it directly following the headnote.
5. Rather than starting the subsection you're amending on a new line after the headnote, please consider starting it directly after the headnote as in the following example. "**Headnote.** (x)(x) These words are typed here ..." If there is an introductory paragraph, please use it following the headnote and start the amended section on a new line.
6. In section 6, please delete the word "shall" as no duty is created. See section 2-4-401 (13.7), Colorado Revised Statutes. Instead, write "These amendments take effect...".
7. Section 6 amends neither the state constitution nor the Colorado Revised Statutes and therefore should not be in small capital letters.