

STATE OF COLORADO

Colorado General Assembly

Natalie Castle, Director
Legislative Council Staff

Colorado Legislative Council
200 E. Colfax Ave., Room 011
Denver, Colorado 80203-1716
303-866-3521
lcs.ga@coleg.gov



Ed DeCecco, Director
Office of Legislative Legal Services

Office of Legislative Legal Services
1375 Sherman St., Suite 300
Denver, Colorado 80261
303-866-2045
olls.ga@coleg.gov

MEMORANDUM

To: Suzanne Taheri and Sandra Robnett

From: Legislative Council Staff and Office of Legislative Legal Services

Date: April 1, 2026

Subject: Proposed Initiative Measures 2025-2026 #415, 2025-2026 #416, 2025-2026 #417, and 2025-2026 #418, Concerning the Legalization of Limited Gaming Statewide

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Legislative Council Staff 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 and questions to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the directors of Legislative Council Staff and the Office of Legislative Legal Services is to provide comments and questions intended to aid designated representatives, and the proponents they represent, in determining the language of their proposal and to avail the public of the contents of the proposal. Our first objective is to be sure we understand your intended purposes of the proposal. We hope that the comments and questions in this memorandum provide a basis for discussion and understanding of the proposal. Discussion between designated representatives or their legal representatives and employees of the Legislative Council Staff and the Office of Legislative Legal Services is encouraged during review and comment meetings, but comments or discussion from anyone else is not permitted.

Proposed initiatives 2025-2026 #415 through #418 were submitted by the same designated representatives as a series of proposed initiatives. The comments and questions raised in this memorandum address proposed initiatives 2025-2026 #415 through #418.

Purposes

Purposes for Proposed Initiative 2025-2026 #415

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

1. To allow any town, city, county, or city and county in Colorado to allow limited gaming within its boundaries, subject to an affirmative vote of a majority of the electors of the town, city, county, or city and county;
2. To allow a town, city, county, or city and county that allows limited gaming to limit approved games, hours of operation, and allowable single bet amounts;
3. To require a town, city, county, or city and county that allows limited gaming to pay to the state a percentage of the adjusted gross proceeds of limited gaming, which proceeds are to be deposited in a new cash fund created in the state treasury;
4. To require a town, city, county, or city and county that allows limited gaming to pay to the state tax revenues resulting from limited gaming, which tax revenues are to be deposited in a new cash fund created in the state treasury;
5. To allow voters in a town, city, county, or city and county to consider no more than once every four years a ballot initiative that authorizes limited gaming in the town, city, county, or city and county; and
6. To prohibit voters in a town, city, county, or city and county that votes to allow limited gaming from subsequently rejecting limited gaming through a ballot initiative or otherwise.

Purposes for Proposed Initiative 2025-2026 #416

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

1. To allow any town, city, county, or city and county in Colorado to allow limited gaming within its boundaries if approved by voters through an initiative or a referred measure;
2. To require a town, city, county, or city and county that allows limited gaming to pay to the state a percentage of the adjusted gross proceeds of

limited gaming, which proceeds are to be deposited in a new cash fund created in the state treasury; and

3. To require a town, city, county, or city and county that allows limited gaming to pay to the state tax revenues resulting from limited gaming, which tax revenues are to be deposited in a new cash fund created in the state treasury.

Purposes for Proposed Initiative 2025-2026 #417

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

1. To allow any town, city, county, or city and county in Colorado to allow limited gaming within its boundaries, subject to approval by a majority of voters in the town, city, county, or city and county; and
2. To allow a town, city, county, or city and county whose voters approve limited gaming to share in the distribution of the local share of gaming revenue distributions in proportion to the amount of gaming revenues generated.

Purposes for Proposed Initiative 2025-2026 #418

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

1. To allow any town, city, county, or city and county in Colorado to allow limited gaming within its boundaries, subject to an affirmative vote of a majority of the electors of the town, city, county, or city and county;
2. To require a town, city, county, or city and county that allows limited gaming to pay to the state a percentage of the adjusted gross proceeds of limited gaming, which proceeds are to be deposited in a new cash fund created in the state treasury; and
3. To require the state treasurer to distribute gaming tax revenues according to a specific schedule.

Substantive Comments and Questions

The substance of the proposed initiatives 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:
 - a. Proposed initiative #415?
 - b. Proposed initiative #416?
 - c. Proposed initiative #417?
 - d. Proposed initiative #418?

2. Article V, section 1 (4)(a) of the Colorado Constitution requires that when the majority of voters approve an initiative, the initiative is effective on and after the date of the official declaration of the vote and proclamation of the governor.

Because the proposed initiatives do not contain an effective date, this would be the default effective date. Does this default effective date satisfy the proponents' intent? If not, the proponents should include the desired effective date that is not earlier than the default effective date to comply with this constitutional requirement.

3. The proposed initiatives do not address the existing language of article XVIII, section 9 of the Colorado Constitution (section 9), despite the fact that much of section 9 conflicts with the language that the proposed initiatives would add to section 9. Instead, the proposed initiatives simply use the phrase "Notwithstanding any other provisions of this section," to begin subsection (8)(a) of the proposed initiatives.
 - a. Under this approach, the proposed initiatives would leave considerable obsolete and conflicting language in section 9, making the section unnecessarily confusing. The proponents should consider including additional language to repeal or amend the existing provisions of section 9 as necessary.
 - b. Moreover, with respect to proposed initiatives #415, #416, and #418, the "notwithstanding" language of the proposed initiatives could be interpreted to apply only to subsection (8)(a) of the proposed initiatives and not to the remaining language of subsection (8) of the proposed initiatives, which interpretation would lead to further unnecessary confusion regarding section 9.

4. Subsection (8)(a) of proposed initiative #415 conflicts with subsection (8)(c)(I) of the proposed initiative because subsection (8)(a) purports to legalize limited gaming statewide, and subsection (8)(c)(I) describes a prerequisite (i.e., a ballot initiative) that a community must satisfy before it may permit limited gaming within its boundaries. Also, because subsection (8)(a) begins with the phrase “Notwithstanding any other provisions of this section,” subsection (8)(a) appears to negate the prerequisite described in subsection (8)(c)(I).
5. Subsection (8)(c)(I) of proposed initiative #415 refers to “a county which has been granted constitutional authority for limited gaming.” This language is confusing because subsection (8)(a) of the proposed initiative grants such authority to **all** counties.
6. There are two subsections of proposed initiative #415 that are numbered as subsection (8)(c)(II). The second subsection numbered as subsection (8)(c)(II) of the proposed initiative states that if a “city, town or unincorporated portion of a county” obtains approval for limited gaming, then “limited gaming shall thereafter be lawful . . . **so long as** the city, town or county remains among those with constitutional authority for limited gaming.” (**Emphasis added**) The phrase “so long as” implies that it would be possible for a city, town, or county that approves limit gaming to subsequently reject it; however, the proposed initiative does not indicate any way that could happen. Do the proponents intend for the proposed initiative to allow a city, town, or county that approves limit gaming to subsequently reject it?
7. The proposed initiatives alternatively refer to “town, city, county, or city and county,” “city, town, city and county, or unincorporated portion of a county,” “city, town, or county,” etc. To the extent possible, the proponents should use consistent language.
8. Subsection (8)(c)(IV)(A) of proposed initiative #415 erroneously refers to “this subsection (6).”
9. The first clause of subsection (8)(c)(V) of proposed initiative #415 states that “Nothing contained in this subsection (8) shall be construed to affect the authority granted upon the initial adoption of this section at the 1990 general election.” However, the proposed initiative **does**, in fact, make substantive changes regarding the constitutional authority of communities to adopt and regulate limited gaming. So this language should be modified or removed.

10. Subsection (8)(c)(VII)(A) of proposed initiatives #415 and #416 appear to be redundant of existing section 9(5), while subsection (8)(c)(VII)(A) of proposed initiative #418 appears to directly conflict with section 9(5) regarding the amount of adjusted gross proceeds to be paid by each licensee. Subsection (8)(c)(VII)(A) of proposed initiative #415 also purports to create the limited gaming fund, which already exists pursuant to existing section 9(5).
11. Subsection (8)(c)(VII)(B) of proposed initiative #415 and (8)(b)(VII)(B) of proposed initiative #416 state that “[l]imited gaming tax revenues attributable to the operation of this subsection (8) shall be deposited in the local limited gaming fund.” Do the proponents intend to require communities that adopt limited gaming to transfer **all** gaming tax revenues to the state treasurer for deposit into the local limited gaming fund (rather than retaining all or some of such tax revenues)?
12. There is currently no “local limited gaming fund” in the state treasury. If the proponents intend to create such a fund, this should be made clear in proposed initiative #415 that references the “local limited gaming fund” in subsection (8)(c)(VII)(B).
13. Subsections (8)(c)(VII) and (8)(c)(VIII) of the proposed initiatives appear to be redundant with existing section 9(7). The proponents may consider simply amending existing section 9(7) as necessary rather than adding all of this duplicative language.
14. Subsection (8)(c)(VIII)(C) of proposed initiative #415, subsection (8)(b)(VIII)(C) of proposed initiative #416, and subsection (8)(b)(VIII)(B) of proposed initiative #418 end in a colon and serve as an introductory portion for three roman-numeraled provisions that follow. However, the format of the Colorado Constitution does not allow for granularity of provisions beyond sub-subparagraphs (e.g., (A), (B), and (C)). Also, roman numerals are already used to indicate subparagraphs. The proponents should redraft the provisions accordingly.
15. Provisions in proposed initiatives #416 and #418 are numbered incorrectly, as they go from paragraphs (8)(a) and (8)(b) to subparagraphs (VII) and (VIII), and proposed initiative #416 includes a subparagraph (IX) as well. Subparagraphs (VII), (VIII), and (IX) do not appear to relate to paragraph (8)(b) that precedes them. Please rework the numbering within the proposed initiatives to reflect sequential numbering.

16. Subsection (8)(c)(VIII)(C)(II) [sic] of proposed initiative #415, subsection (8)(b)(VIII)(C)(II) [sic] of proposed initiative #416, and subsection (8)(b)(VIII)(B)(II) [sic] of proposed initiative #418 refer erroneously to “this subsection (7).”
17. For proposed initiative #417, the language is a run-on sentence. The proponents should consider redrafting the provision to break up the sentence as follows (or similarly):

(8) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION, EFFECTIVE JANUARY 1, 2027, LIMITED GAMING SHALL BE AUTHORIZED UNDER THIS ACT IN ANY TOWN, CITY, COUNTY, OR CITY AND COUNTY BY VOTER APPROVAL OF A SIMPLE MAJORITY OF THEIR VOTERS. ~~AND~~ **A TOWN, CITY, COUNTY, OR CITY AND COUNTY WHOSE VOTERS APPROVE LIMITED GAMING MAY** SHARE IN THE DISTRIBUTION OF THE LOCAL SHARE OF GAMING REVENUE DISTRIBUTIONS **(Emphasis added)**

Technical Comments

The following comments address technical issues raised by the form of the proposed initiatives. These comments will be read aloud at the public meeting only if the designated representatives so request. You will have the opportunity to ask questions about these comments at the review and comment meeting. Please consider revising the proposed initiatives as follows:

1. The amending clauses for the proposed initiatives are incorrect. Please correct the language and note that standard drafting practice is to use lowercase text in amending clauses. For example:

In the constitution of the state of Colorado, section 9 of article XVIII, **add** (8) as follows:

2. Subsection (8)(c)(I) of proposed initiative #415 cross-references “paragraph (V) of this subsection (8)(c).” Standard drafting practice is to write internal cross-references within a section as follows: “subsection (8)(c)(V) of this section.”
3. There are two subsections of proposed initiative #415 numbered as subsection (8)(c)(II). The second such subsection should be renumbered as (8)(c)(III) and the subsequent provisions in subsection (8)(c) should be renumbered accordingly.

4. The second subsection of proposed initiative #415 that is numbered as subsection (8)(c)(II) cross-references “paragraph (IV) of this subsection (c).” Standard drafting practice is to write internal cross-references within a section as follows:
“subsection (8)(c)(IV) of this section.”
5. Proposed initiative #417 adds a new subsection “(8)(a)” to article XVIII, section 9 of the Colorado Constitution. However, the initiative does not include an “(8)(b),” so the “(a)” should be stricken.