

NOTICE OF ELECTION TO INCREASE TAXES ON A CITIZEN PETITION

STATEWIDE ELECTION DAY IS

Tuesday, November 4, 2014

Voter service and polling centers open 7 a.m. to 7 p.m.

This election is a mail ballot election. For information about voter service and polling centers, please contact your county election office. Contact information for county election offices appears inside the back cover of this booklet.



2014 STATE BALLOT INFORMATION BOOKLET

and

Recommendations on Retention of Judges

Legislative Council of the
Colorado General Assembly
Research Publication No. 639

Amendment 68 Horse Racetrack Casino Gambling

Amendment 68

ANALYSIS

Amendment 68 proposes amending the Colorado Constitution to:

- ♦ permit casino gambling at horse racetracks in Arapahoe, Mesa, and Pueblo counties, limited to one racetrack in each county; and
- ♦ distribute new casino gambling tax revenue to K-12 public schools.

Summary and Analysis

Horse racetrack casino gambling. Amendment 68 expands legal gambling in the state by permitting limited-stakes casino gambling at horse racetracks in Arapahoe, Mesa, and Pueblo counties. One racetrack in each county may offer casino gambling, which may include slot machines, the card games of blackjack and poker, and the games of roulette and craps. Current laws that regulate horse racing and betting on horse races are unchanged by the measure.

Before obtaining a limited gaming license, each racetrack must host 30 or more live horse race days per year for at least five consecutive years and be licensed to allow betting on horse races. Within the first 30 days of operating casino gambling, each horse racetrack must pay a \$25 million one-time fee to the state. A local government may impose a one-time impact fee and ongoing annual impact fees; the fee amount must be negotiated and be reasonably related to the local government's expenses that occur as a result of allowing casino gambling at the racetrack.

Arapahoe County has one existing horse racetrack, Arapahoe Park, which could be licensed for casino gambling in 2015. Because Mesa and Pueblo counties do not currently have an operational horse racetrack, casino gambling in those counties could not begin until at least 2019.

Once approved, each racetrack is authorized to have 2,500 slot machines, or more if approved by the Limited Gaming Control Commission in the Colorado Department of Revenue. No restrictions are placed on the number of tables for card games, roulette, or craps. Hours of operation are limited to 8:00 a.m. to 2:00 a.m. the following day, unless the local government in which the racetrack is located approves extended hours. Only adults 21 years of age and older may gamble, and no single wager may exceed \$100.

K-12 public school funding. Once a new horse racetrack casino opens, Amendment 68 will generate new funding for public schools. In addition to the one-time \$25 million fee, each racetrack must pay 34 percent of its adjusted gross proceeds (AGP) to the state. AGP includes all revenue from casino gambling at the racetrack less the amount paid to winners. New gambling tax revenue, and the \$25 million one-time fee, are deposited in the newly created K-12 Education Fund and distributed on a per-pupil basis to public school districts and to a state agency that authorizes public charter schools. Funding from the new gambling tax revenue must be used to address local education issues and may not replace existing funding for public schools.

Because of its location in the Denver metropolitan area, a new casino at Arapahoe Park could provide up to \$114.5 million each year for public schools, or about \$132 per student beginning in budget year 2016-17. For the 2014-15 school year, public schools received about \$7,021 per student. If new racetrack casinos open in Mesa and Pueblo counties, public schools could receive additional funding in the future. State and local tax revenue from casino gambling at horse racetracks is exempt from constitutional limits on government revenue and spending.

Current casino gambling in Colorado. Gambling in Colorado may only take place in areas that have received constitutional authority through a statewide vote, except for casinos on Indian reservations, which are not regulated by the state. In 1990, voters statewide approved limited-stakes gambling in Central City and Black Hawk in Gilpin County, and Cripple Creek in Teller County.

In 1992, the state's voters approved a referred constitutional amendment requiring a local vote in favor of gambling in any city, town, or county granted constitutional authority for gambling in a statewide vote. In 2008, state and local voters approved an expansion of

limited-stakes gambling in Gilpin and Teller counties, including higher bet limits and extended hours of operation. Amendment 68 authorizes the same type of expanded gambling at horse racetracks in three counties, without requiring a local vote to affirm or deny that authority.

State tax revenue from current casino gambling. Tax revenue from gambling in Central City, Black Hawk, and Cripple Creek, after administrative expenses are paid, totaled \$93.9 million in state budget year 2013-14. This revenue is deposited in the Limited Gaming Fund and distributed each year to community colleges, counties, cities, historic preservation, economic development programs, and other state purposes. Taxes and license fees paid by existing casinos cover the cost incurred by the state to regulate gambling in the mountain communities.

For information on those issue committees that support or oppose the measures on the ballot at the November 4, 2014, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

Arguments For

1) Amendment 68 provides additional money for public schools without raising income, property, or sales taxes on individuals or businesses. Investing in public education is an important way to ensure a strong Colorado economy capable of competing in today's global marketplace. The recent recession required public schools to reduce programs and cut budgets. Amendment 68 increases the state's investment in public education by providing up to \$114.5 million annually to school districts and charter schools beginning in 2016, and diversifying the sources of funding for public schools.

2) This measure will add jobs and increase economic activity in host communities. In the short term, improving the Arapahoe Park racetrack will create new construction jobs. Once a horse racetrack casino is operational, more permanent jobs will put additional money into the regional economy. For example, the U.S. Census Bureau reports that the average casino employed about 200 people in 2012.

In the longer run, new gambling opportunities may create additional jobs in other hospitality sectors, such as hotels and restaurants, and help maximize tourism spending in the state.

Arguments Against

1) The measure directly benefits only a single commercial interest for the next five years, undermines the economies in existing gambling communities, and puts dedicated tax revenue for important state programs in jeopardy. Until 2019, only Arapahoe Park can receive a new limited gaming license. Existing legal gambling in Black Hawk, Central City, and Cripple Creek depends on customers from the Front Range metropolitan areas. When mountain communities lose customers to the new casino in Arapahoe County, these mountain communities lose economic activity and pay less in gambling taxes. This existing tax revenue from the Limited Gaming Fund helps support historic preservation, community colleges, tourism promotion, economic development, and other state and local services. Amendment 68 places this funding at risk.

2) Amendment 68 does not give local voters the option to decide if gambling should be authorized in their communities. In 1992, voters passed a constitutional requirement that local communities conduct a separate election. Large commercial attractions such as casino gambling can have negative impacts that increase pressure on governmental services in both the host and surrounding communities. These services include law enforcement, court services, traffic control, and road repair. In addition, voter approval will not be required for the casino to expand its hours of operation. This measure may burden local communities with negative consequences without providing those communities the opportunity to decide the issue in a separate election.

Estimate of Fiscal Impact

State revenue. Amendment 68 increases state revenue to the K-12 Education Fund by up to \$81.9 million in budget year 2015-16, and up to \$114.5 million in budget year 2016-17, the first full budget year of implementation. The amendment requires that all new gambling tax revenue be allocated to K-12 public schools. Based on state projections of student enrollment, new revenue will equate to about \$96 more funding per student for the 2015-16 school year, and about \$132 more funding per student beginning with the 2016-17 school year.

New gambling tax revenue will be partially offset by reduced revenue from existing gambling taxes. Only Arapahoe Park in Arapahoe County can be authorized to conduct casino gambling in the next five years. Arapahoe Park is expected to attract some gamblers who would otherwise gamble at casinos in Black Hawk, Central City, and Cripple Creek. For this reason, gambling tax revenue to the Limited Gaming Fund will decrease. Reduced revenue to the fund decreases state allocations to community colleges, counties and cities in which gambling is currently authorized, historic preservation, economic development programs, and the state General Fund. Table 1 shows the estimated maximum net change in tax revenue as a result of Amendment 68.

Table 1. Estimated Maximum Tax Revenue Change Under Amendment 68*

	Budget Year 2015-16	Budget Year 2016-17
K-12 Education Fund	\$81.9 million	\$114.5 million
Limited Gaming Fund	(\$14.6 million)	(\$29.5 million)
Total (Net) State Revenue	\$67.2 million	\$85.0 million

**This summary shows changes from current law under the measure for each budget year. Parentheses indicate a decrease in funds.*

State spending. In addition to allocating new gambling tax revenue to public schools, Amendment 68 also increases state spending to regulate gambling at Arapahoe Park, and to perform audits of the K-12 Education Fund. Increased state spending is estimated at about \$800,000 per year beginning in budget year 2015-16. The state's cost to regulate existing casino gambling was about \$11 million in budget year 2013-14. The state's cost to regulate casino gambling at horse racetracks will be covered either with new fees imposed on racetrack owners by the Limited Gaming Control Commission or from other state funds.

State Spending and Tax Increases

The state constitution requires that the following fiscal information be provided when a tax increase question is on the ballot:

- ◆ the estimated or actual state spending under the constitutional spending limit for the current year and each of the past four years with the overall percentage and dollar change; and
- ◆ for the first full year of the proposed tax increase, an estimate of the maximum dollar amount of the tax increase and of the amount of revenue the state may keep under the constitutional spending limit without the increase.

Table 2 shows the dollar amount of state spending under the constitutional spending limit.

Table 2. State Spending

	Actual FY* 2010-11	Actual FY 2011-12	Actual FY 2012-13	Estimated FY 2013-14	Estimated FY 2014-15
State Spending	\$9.4 billion	\$10.3 billion	\$11.1 billion	\$11.6 billion	\$12.2 billion
Four-Year Dollar Change in State Spending: \$2.8 billion					
Four-Year Percent Change in State Spending: 29.8 percent					

**FY = fiscal year. The state's fiscal (or budget) year runs from July through June.*

The numbers in Table 2 show state spending from 2010 through 2014 for programs that were subject to the constitutional spending limit during those years. However, the constitution allows a program that operates similarly to a private business to be exempt from the limit if it meets certain conditions. Because the exempt status of some programs has changed during the last five years, the numbers in Table 2 are not directly comparable to each other.

Table 3 shows the revenue expected from the new tax, and state fiscal year spending without the tax for FY 2016-17, the first full fiscal year for which the increase would be in place.

Table 3. Estimated State Fiscal Year Spending and the Proposed Casino Gambling Tax

	FY 2016-17 Estimate
State Spending Without the New Tax	\$15.5 billion
Revenue from the New Tax	\$114.5 million

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BALLOT TITLE AND TEXT

The ballot title below is a summary drafted by the professional staff of the offices of the secretary of state, the attorney general, and the legal staff for the general assembly for ballot purposes only. The ballot title will not appear in the Colorado constitution. The text of the measure that will appear in the Colorado constitution below was drafted by the proponents of the initiative. The initiated measure is included on the ballot as a proposed change to current law because the proponents gathered the required amount of petition signatures.

Ballot Title: SHALL STATE TAXES BE INCREASED \$114,500,000 ANNUALLY IN THE FIRST FULL FISCAL YEAR, AND BY SUCH AMOUNTS THAT ARE RAISED THEREAFTER, BY IMPOSING A NEW TAX ON AUTHORIZED HORSE RACETRACKS' ADJUSTED GROSS PROCEEDS FROM LIMITED GAMING TO INCREASE STATEWIDE FUNDING FOR K-12 EDUCATION, AND, IN CONNECTION THEREWITH, AMENDING THE COLORADO CONSTITUTION TO PERMIT LIMITED GAMING IN ADDITION TO PRE-EXISTING PARI-MUTUEL WAGERING AT ONE QUALIFIED HORSE RACETRACK IN EACH OF THE COUNTIES OF ARAPAHOE, MESA, AND PUEBLO; AUTHORIZING HOST COMMUNITIES TO IMPOSE IMPACT FEES ON HORSE RACETRACKS AUTHORIZED TO CONDUCT LIMITED GAMING; ALLOWING ALL RESULTING REVENUE TO BE COLLECTED AND SPENT NOTWITHSTANDING ANY LIMITATIONS PROVIDED BY LAW; AND ALLOCATING THE RESULTING TAX REVENUES TO A FUND TO BE DISTRIBUTED TO SCHOOL DISTRICTS AND THE CHARTER SCHOOL INSTITUTE FOR K-12 EDUCATION?

Text of Measure:

Be it Enacted by the People of the State of Colorado:

SECTION 1. In the constitution of the state of Colorado, add section 17 to article XVIII as follows:

Section 17. K-12 education fund. (1) THE K-12 EDUCATION FUND IS HEREBY ESTABLISHED TO IMPROVE THE EDUCATION OF CHILDREN IN COLORADO PUBLIC SCHOOLS BY PROVIDING ADDITIONAL REVENUE TO ADDRESS LOCAL NEEDS, INCLUDING REDUCING CLASS SIZES, ACQUIRING TECHNOLOGY FOR TEACHERS AND STUDENTS, ENHANCING SCHOOL SAFETY AND SECURITY, AND IMPROVING SCHOOL FACILITIES.

(2)(a) THE K-12 EDUCATION FUND CONSISTS OF THE MONEYS AS PROVIDED IN SUBSECTION (3) OF THIS SECTION. THE STATE TREASURER SHALL CREDIT TO THE K-12 EDUCATION FUND ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE K-12 EDUCATION FUND.

(b) THE STATE TREASURER SHALL ANNUALLY DISTRIBUTE THE MONEYS IN THE K-12 EDUCATION FUND ON A PER-PUPIL BASIS TO EACH SCHOOL DISTRICT AND THE STATE CHARTER SCHOOL INSTITUTE, OR SUCCESSOR AGENCY. THE PER-PUPIL AMOUNT IS DETERMINED BY DIVIDING THE TOTAL AMOUNT TO BE DISTRIBUTED BY THE STATEWIDE PUBLIC SCHOOL ENROLLMENT. THE AMOUNT DISTRIBUTED TO EACH SCHOOL DISTRICT IS THE PER-PUPIL AMOUNT MULTIPLIED BY THE SCHOOL DISTRICT'S PUPIL ENROLLMENT, AND THE AMOUNT DISTRIBUTED TO THE STATE CHARTER SCHOOL INSTITUTE, OR SUCCESSOR AGENCY, IS THE PER-PUPIL AMOUNT MULTIPLIED BY THE NUMBER OF PUPILS ENROLLED AT INSTITUTE CHARTER SCHOOLS.

(c) MONEYS DISTRIBUTED TO THE SCHOOL DISTRICTS AND THE STATE CHARTER SCHOOL INSTITUTE, OR SUCCESSOR AGENCY, UNDER THIS SUBSECTION (2) ARE IN ADDITION TO ANY OTHER MONEYS APPROPRIATED FOR DISTRIBUTION TO SCHOOL DISTRICTS OR THE CHARTER SCHOOL INSTITUTE OR OTHERWISE ALLOCATED TO SCHOOL DISTRICTS OR THE CHARTER SCHOOL INSTITUTE. NO SCHOOL DISTRICT OR INSTITUTE CHARTER SCHOOL IS REQUIRED TO USE MONEY DISTRIBUTED UNDER THIS SUBSECTION (2) AS A CONTRIBUTION TO ANY FUNDING FORMULA CONTAINED IN LAW.

(d) EACH SCHOOL DISTRICT AND EACH INSTITUTE CHARTER SCHOOL SHALL USE THE MONEYS RECEIVED FROM THE K-12 EDUCATION FUND TO IMPROVE THE EDUCATION OF CHILDREN IN COLORADO PUBLIC SCHOOLS BY ADDRESSING LOCAL NEEDS, INCLUDING REDUCING CLASS SIZES, ACQUIRING TECHNOLOGY FOR TEACHERS AND STUDENTS, ENHANCING SCHOOL SAFETY AND SECURITY, AND IMPROVING SCHOOL FACILITIES.

(e) THE STATE AUDITOR SHALL CONDUCT OR DIRECT A FINANCIAL AUDIT OF THE K-12 EDUCATION FUND AT LEAST ANNUALLY, AND SHALL SUBMIT A REPORT OF THE FINANCIAL AUDIT TO THE LEGISLATIVE AUDIT COMMITTEE.

(3)(a) NOTWITHSTANDING ANY OTHER LAW OR CONSTITUTIONAL PROVISIONS TO THE CONTRARY, THE COMMISSION SHALL EXPAND LIMITED GAMING IN THE STATE OF COLORADO BY IMPLEMENTING HORSE RACETRACK LIMITED GAMING, AS SET FORTH IN THIS SECTION.

(b) IN ORDER TO CONDUCT HORSE RACETRACK LIMITED GAMING, IN ADDITION TO ANY APPLICABLE LICENSE FEES, A HORSE RACETRACK LICENSED TO CONDUCT LIMITED GAMING MUST:

(I) WITHIN THE FIRST THIRTY DAYS OF OPERATING HORSE RACETRACK LIMITED GAMING, MAKE A SINGLE PAYMENT OF TWENTY-FIVE MILLION DOLLARS TO THE STATE TREASURER FOR DEPOSIT INTO THE K-12 EDUCATION FUND; AND

(II) BEGINNING WITH THE FIRST STATE FISCAL YEAR IN WHICH A HORSE RACETRACK THAT IS AUTHORIZED TO CONDUCT HORSE RACETRACK LIMITED GAMING GENERATES ADJUSTED GROSS PROCEEDS FROM HORSE RACETRACK LIMITED GAMING, PAY TO THE STATE TREASURER THIRTY-FOUR PERCENT OF THE HORSE RACETRACK'S ADJUSTED GROSS PROCEEDS OF HORSE RACETRACK LIMITED GAMING GENERATED EACH YEAR FOR DEPOSIT INTO THE K-12 EDUCATION FUND.

(c) EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION, HORSE RACETRACKS SHALL RETAIN THE BALANCE OF THEIR ADJUSTED GROSS PROCEEDS FROM HORSE RACETRACK LIMITED GAMING NOT PAID PURSUANT TO THIS SUBSECTION (3).

(d) ALL MONEYS IN THE K-12 EDUCATION FUND SHALL BE SET ASIDE, ALLOCATED, ALLOTTED, AND CONTINUOUSLY APPROPRIATED FOR DISTRIBUTION IN ACCORDANCE WITH THIS SECTION.

(4) A HOST COMMUNITY MAY IMPOSE ON A HORSE RACETRACK LICENSED TO CONDUCT LIMITED GAMING IN THE HOST COMMUNITY A ONE-TIME INITIAL IMPACT FEE AND ANNUAL IMPACT FEES THAT ARE REASONABLY RELATED TO THE HOST COMMUNITY'S COSTS RESULTING FROM HORSE RACETRACK LIMITED GAMING. THE AMOUNT OF THE IMPACT FEES WILL BE ESTABLISHED THROUGH NEGOTIATIONS BETWEEN A HORSE RACETRACK AND THE HOST COMMUNITY.

(5) STATE AND LOCAL GOVERNMENTS SHALL COLLECT, DISTRIBUTE, AND SPEND ALL REVENUES DERIVED PURSUANT TO THIS SECTION AS VOTER-APPROVED REVENUE CHANGES WITHOUT REGARD TO ANY LIMITATION CONTAINED IN SECTION 20 OF ARTICLE X OF THE COLORADO CONSTITUTION OR ANY OTHER LAW.

(6) THE ADMINISTRATION AND REGULATION OF THIS SECTION ARE SUBJECT TO THE AUTHORITY OF THE COMMISSION. NO LATER THAN JULY 1, 2015, THE COMMISSION SHALL PROMULGATE ALL NECESSARY RULES TO