

**IN RE: TITLE, BALLOT TITLE, AND SUBMISSION CLAUSE  
FOR INITIATIVE 2025 -2026 #417  
("LIMITED GAMING EXPANSION AND LOCAL CONTROL")**

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Initiative Proponents: Suzanne Taheri and Sandra Robnett

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Objector: Ronald R. Kammerzell

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**MOTION FOR REHEARING**

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By undersigned counsel, Ronald R. Kammerzell, a registered voter of the County of Jefferson, objects to the titles set for Initiative #417, pursuant to C.R.S. § 1-40-107(1)(a)(I).

On April 15, 2026, the Title Board set the following ballot title and submission clause for Initiative #417:

*Shall there be an amendment to the Colorado Constitution allowing voters in any city, town, city and county, or county to approve limited gaming within its boundaries, and, in connection therewith, in a local jurisdiction where limited gaming is approved, allowing it to share in the distribution of the gaming revenues in proportion to the amount of limited gaming revenues generated in the local jurisdiction?*

**I. The Title Board lacks jurisdiction to set a ballot title for Initiative #417 because it comprises multiple subjects.**

- A. The first subject: Initiative #417 authorizes unlimited gaming – both in terms of the amount of bets as well as the type of gaming which, because the constitutional definition of “limited gaming” is expressly excluded from this measure, could be any game or subject on which money can be wagered.

The new subsection (8) of section 9 of article XVIII specifies that “gaming expansion” is authorized “[n]otwithstanding subsections (1) through (7) of this section.” “Limited gaming” is defined in subsection 4, subparagraph (c) of which reads as follows: “‘Limited gaming’ means the use of slot machines and the card games of blackjack and poker, each game having a maximum single bet of five dollars, means the use of slot machines and the card games of blackjack and poker, each game having a maximum single bet of five dollars, unless such games or single bets are revised as provided in subsection (7) of this section.” Under subsection (7),

voters of Black Hawk, Central City, and Cripple Creek were authorized to change any limits on games, the amount of single bets, and casino hours.

Because of the “notwithstanding” clause, neither of these provisions apply to the new locales where gaming could be conducted—and it isn’t even clear that localities would have the authority to limit gaming. Thus, the default under this provision is that there are no limits on gaming that would be authorized. Various new localities could choose to allow unlimited bets on gaming that has not been approved in these three cities including wagers on otherwise prohibited proposition bets in sports betting, *see* Colorado Limited Gaming Control Commission Sports Betting Rule 1.3, 1 CCR 207-2 (<https://sbg.colorado.gov/sites/sbg/files/documents/SBRule1-011426.pdf>), as well as domestic political developments, world events, and stock market swings or other economic occurrences anywhere in the world. *See, e.g.,* [www.polymarket.com](http://www.polymarket.com).

This is a marked shift from the existing commercial gaming structure that voters approved in three gaming towns. If proponents were unaware that they eliminated the definition of “limited gaming” from applying to their amendment, it is no excuse because that is what their measure accomplishes. Any consideration of the measure must be framed in that context.

- B. *The second subject: Initiative #417 removes the existing constitutional requirement that statewide voters approve gaming as a constitutional amendment before a local vote is held to authorize gaming in a new local jurisdiction.*

Subsection (6) of section 9 of article XVIII requires that any local jurisdiction that will offer gaming must first be approved by statewide voters in the form of a constitutional amendment, restricting gaming to “any city, town, or unincorporated portion of a county **which has been granted constitutional authority for limited gaming** within its boundaries” so long as that jurisdiction is “first approved by an affirmative vote of a majority of the electors of such city, town, or county voting thereon.” (Emphasis added.) Subsection (6) goes on to state that the timing of a local vote must be “within thirteen months after the effective date of **the amendment which first adds such city, county, or town to those authorized for limited gaming** pursuant to this constitution.” (Emphasis added.)

Initiative #417 exempts localities from having “been granted constitutional authority for limited gaming” because there is no statewide vote that “first adds (a locality) to those authorized for gaming.” Colo. Const., art. XVIII, sec. 9(6). This aspect of #417 was not a matter about which the proponents advised the Title Board, and it was not a matter that was evident to Title Board members until the issue was raised at the April 15 title setting hearing. It would likewise be a matter that is not apparent to voters and is thus the surreptitious change that the single subject requirement was intended to protect against.

It is similar to the attempted evisceration of the single subject requirement that was shoehorned into an omnibus change to petition requirements. “A voter of average intelligence would be quite surprised to find out that an initiative purporting to deal with procedural aspects of the right to petition drastically altered the substance of measures on the ballot.” *In re Title, Ballot Title and Submission Clause for Proposed Initiatives #43 and #45*, 46 P.3d 438, 446 (Colo. 2002). As to #417, most voters would be surprised that the double-barreled protection they

adopted to ensure buy-in by both the state as a whole and by the affected locality was no longer in effect because the statewide vote requirement will have been eliminated. *Id.* (second subject would commit a fraud on voters by “reversing a constitutional safeguard the voters felt was necessary” through their prior adoption of such protection).

In the same way, voters approved subsection (6) in 1992. Voters understood that there would be two votes on any locality’s gambling proposal, as the Blue Book clearly stated. “Adoption of this amendment would require local approval of gambling **in addition to statewide approval.**” *An Analysis of 1992 Ballot Proposals*, Res. Pub. No. 369 at 9 (<https://hermes.cde.state.co.us/islandora/object/co:2548/datastream/OBJ/view>) (emphasis added). The very first argument in favor of this two-vote process stated: “The impact of gambling in a community is of such importance, with far-reaching implications, that the question of expansion into a new area should be determined by local vote, **which would follow an affirmative statewide vote.**” *Id.* (emphasis added).

A vote in favor of #417 is not the “affirmative statewide vote” that the 1992 ballot measure required. Had that been the case, subsection (6) would not be specific about “the amendment that first adds” a given locality to the list of jurisdictions “authorized for limited gaming pursuant to this constitution.” But that is exactly what the Constitution says, and #417 removes that requirement for all voters in the state to decide, as a preliminary matter, that more gaming in the state is good for Colorado and, specifically, that the local voters of a given jurisdiction should have the final say on whether gambling expands to their city, town or county.

C. *The third subject: Initiative #417 allocates a portion of gaming tax revenue from existing jurisdictions (Teller and Gilpin Counties as well as Black Hawk, Central City, and Cripple Creek) to newly approved jurisdictions.*

#417 states: “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 provided in subsections (5)(b)(II) and (7) of this section in proportion to the amount of gaming revenues generated.” So, what do these two existing constitutional provisions state?

According to Colo. Const., art. XVIII, sec. 9(5)(b)(II), besides revenue in the limited gaming fund that is allocated to the Gaming Commission, the state general fund, and the state historical fund, “twelve percent shall be distributed to the governing bodies of Gilpin county and Teller county in proportion to the gaming revenues generated in each county; the remaining ten percent shall be distributed to the governing bodies of the cities of: the City of Central, the City of Black Hawk, and the City of Cripple Creek.” Each local jurisdiction shares in these funds based on the proportion of gaming tax revenue generated in each county or city. *Id.*

According to Colo. Const., art. XVIII, sec. 9(7)(c)(III)(B), (C), besides revenue in the limited gaming fund that is allocated to the Gaming Commission or to community colleges:

Ten percent to the governing bodies of the cities of Central, Black Hawk, and Cripple Creek to address local gaming impacts; provided that such revenue shall

be distributed based on the proportion of gaming tax revenues, attributable to the operation of this subsection (7), that are paid by licensees operating in each city; and

Twelve percent to the governing bodies of Gilpin and Teller Counties to address local gaming impacts; provided that such revenue shall be distributed based on the proportion of gaming tax revenues, attributable to the operation of this subsection (7), that are paid by licensees operating in each county.

Thus, #417 allows new localities to share in the specific allocations of gaming tax revenue to Gilpin and Teller Counties and Black Hawk, Central City, and Cripple Creek. There is no nexus between gaming in a new town (say, Steamboat Springs, Pueblo, or Glendale) and those existing cities. Nor is there any reason for undermining the use of gaming tax revenues to pay for gaming impacts in the existing jurisdictions because new local gaming is approved by a different town's or city's voters. But the harm to existing jurisdictions from having less revenue to cover their gaming impacts is real. As a factor that escaped the notice of the Title Board, this consequence will surely evade the awareness of the average voter. Thus, it is exactly the type of surreptitious extra subject that the single subject requirement was meant to prevent. *See In re Proposed Initiative for 1997-98 # 84*, 961 P.2d 459-60 (Colo. 1998) (diversion of revenue due to unrelated legal changes comprised second subject of initiative).

Indeed, the problem is heightened by the proponents' introductory clause, which provides, "Notwithstanding any provisions of subsections (1) through (7) of this section..." "Notwithstanding" removes that operation of subsections (1) through (7) to the new localities permitting gaming—and the clauses being eliminated include the imposition of the taxes on gaming revenues. In other words, it appears that Initiative #417 does not impose state taxes on gaming revenues in new jurisdictions, yet those jurisdictions are now permitted to share in the tax revenue collected by the legacy jurisdictions. This peculiarity in the measure has lasting consequences as, under TABOR, imposing a state tax on the new jurisdictions to mirror what is in existing law for the legacy jurisdictions would require another statewide election.

Therefore, the Board is precluded from setting a title for Initiative #417.

## **II. The ballot title is misleading, unfair, and inaccurate.**

- A. The ballot title incorrectly refers to this measure as authorizing "limited gaming," but Initiative #417's provisions expressly preclude using the definition of "limited gaming" in applying this amendment.

As noted above, this measure does not incorporate the definition of "limited gaming" and in fact, expressly carves out the subsection that defines "limited gaming" from applying to the new subsection (8). Given the more than 35 years in which limited gaming has been legal in Black Hawk, Central City, and Cripple Creek, it is misleading to say that this measure incorporates the concept of "limited" gaming.

In fact, the text of the measure provides otherwise. Local voters “may, but are not required to limit” games, hours of operation, and bet limits. *See* proposed subsection (8)(c)(II). Thus, any limits exist only if imposed by local voters. Barring any such local vote, there are no limits on gaming in the new jurisdictions. None. Thus, it is misleading to voters to suggest that there are any presumptive limits, and it is further misleading to state (as the title set for this measure does) that the measure “allows local control” when it allows for only those limits that are voters impose. *In re Proposed Initiated Constitutional Amendment Concerning Ltd. Gaming in the Town of Idaho Springs*, 830 P.2d 963, 969 (Colo. 1992) (title misstated applicability of amendment to new gaming provisions in constitution and was thus misleading).

- B. The ballot title fails to inform voters that Initiative #417 allows local votes on gaming without first requiring statewide approval of gaming in a specific local jurisdiction.

Again, as noted above, the measure exempts localities from having to be approved at a statewide vote. Of all the changes to the Constitution proposed by this initiative, this repeal is the most significant alteration to be made. The title is legally deficient by its silence on this dramatic change, and the title’s introductory clause must state that this requirement would be repealed by this initiative.

- C. The ballot title fails to inform voters that Initiative #417 allocates a portion of gaming tax revenue from existing jurisdictions (Teller and Gilpin Counties as well as Black Hawk, Central City, and Cripple Creek) to newly approved jurisdictions.

As noted above, the measure diverts funds from existing gaming jurisdictions into the coffers of new gaming jurisdictions that have nothing to do with the three operating gaming towns, and without subjecting these new jurisdictions’ gaming to state tax. Voters are not informed of that fact by the title which is, as a result, deficient.

- D. If the measure permits taxation of gaming revenue from new jurisdictions, it requires the “shall taxes be raised” introductory clause.

If the Board determines that Initiative #417 in fact permits taxation of gaming revenue from new jurisdictions, a fact which the title needs to be clear about, it must include the mandatory language from TABOR for ballot issues that propose a new tax. *See* Colo. Const., art. X, sec. 20(3)(c)). While this measure would appear to apply the current statutory scheme, it includes a “tax policy change”—expanding the jurisdictions that can have gaming—that will result in a “net revenue gain”—increasing through that policy change the amount of taxes raised. That requires voter approval under TABOR and, as such, requires the inclusion of TABOR’s mandatory introductory clause.

**WHEREFORE**, in light of the arguments and legal precedent cited above, the Title Board should dismiss Initiative #417 for lack of jurisdiction, and if it does not do so, it should revise the titles so that they are fair, accurate, and not misleading.

**RESPECTFULLY SUBMITTED** this 22nd day of April, 2026.

RECHT KORNFELD, P.C.

s/ Mark Grueskin

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**CERTIFICATE OF SERVICE**

I, Erin Mohr, hereby affirm that a true and accurate copy of the **MOTION FOR REHEARING ON INITIATIVE 2025 -2026 #417** was sent this day, April 22, 2026, via email to:

Suzanne Taheri  
Counsel for proponents

Kyle Holter  
Assistant Attorney General

s/ Erin Mohr