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0037 An Analysis of 1960 Ballot Proposals

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LEGISLATIVE COUNCIL
OF THE
COLORADO GENERAL ASSEMBLY

AN ANALYSIS OF
1960 BALLOT PROPOSALS

Research Publication No. 37

1960

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In conformance with the provisions of Chapter 123, Session Laws of 1953, which requires the Legislative Council, among other duties, to "...examine the effects of constitutional provisions..." there is presented herein a copy of its analysis of the 1960 ballot proposals. In addition to listing the PROVISIONS and COMMENTS relating to each such proposal, there are also listed the arguments most commonly given for and against each.

It should be emphasized that the LEGISLATIVE COUNCIL takes NO position, pro or con, with respect to the merits of these proposals. In listing the ARGUMENTS FOR and the ARGUMENTS AGAINST, the Council is merely putting forth the arguments most commonly offered by proponents and opponents of each proposal. The quantity or quality of the FOR and AGAINST paragraphs listed for each proposal is not to be interpreted as indications or inferences of Council sentiment.

The gambling amendment has been ruled off the ballot by the Secretary of State. However, an appeal is pending in District Court. Consequently, an analysis of this amendment is included herein, since this booklet must go to press before the outcome of the litigation is known.

BALLOT TITLES

Constitutional Amendments Submitted by the General Assembly:

1. An amendment to Article XII of the Constitution of the State of Colorado, concerning the classified civil service of the state.
2. Amendments to Sections 8 and 12 of Article XIV of the Constitution of the State of Colorado relating to county officers and providing a means whereby changes in county offices may be voted by the people of a county, and relating to the terms of office of municipal and other local offices, and repealing Section 15 of Article XIV which now requires the payment of salaries of certain county officers solely from the fees of their office.

Constitutional Amendments and Laws Submitted by Initiated Petition:

3. An act to add a new Article to the Constitution, creating a Colorado Wildlife Management Commission; and a Department of Wildlife Conservation; authorizing the acquisition of rights of way for public access to public lands; restricting the use of revenues of the Commission for game, fish and wildlife purposes; prescribing the powers and duties of such Commission.
4. An act to provide that from 1 o'clock A.M. of the last Sunday in April until 2 o'clock A.M. of the last Sunday in September of each year the standard time in the State of Colorado shall be advanced one hour.
5. An act to amend Article X, Section 7 of the Constitution of the State of Colorado to authorize the General Assembly to vest in counties, cities and counties, cities, and towns the power to impose a retail sales and use tax for local purposes on tangible personal property, except drugs and food for off-premises consumption.
6. An act making lawful the operation of certain gambling games and devices upon procurement of licenses therefor by amending Article XVIII of the Colorado Constitution; providing for a State Gaming Commission and a State Control Board to administer this act; fees for the licenses provided for and disposition of the fees realized from licensed operations and penalties for the violation of this act.
7. An act to amend Article IV of the State Constitution, authorizing the Governor, with the consent of the Senate, to appoint administrative officers for certain departments of the state government who shall serve at the pleasure of the Governor; shall be excluded from the classified civil service and who shall exercise the exclusive policy and administrative authority in their respective departments.

PROPOSAL NO. 1 -- CIVIL SERVICE

Provisions.

1. The amendment places under civil service all public officers and employees in the executive branch, except the following:
 - a. Elective officers and those whose different manner of appointment is prescribed by the state constitution.
 - b. One deputy and one stenographer for each elective officer.
 - c. Members of part-time boards and commissions appointed by the governor.
 - d. Members of the state board of land commissioners, the industrial commission of Colorado, the public utilities commission, and the state civil service commission.
 - e. Faculty and administrative officers of all state colleges and universities; the commissioner of education, assistant commissioners, professional educational and consultative employees of the state department of education, executive and administrative officers and curators of the state historical society; the superintendents of state schools for the mentally retarded; and the director of the department of rehabilitation.
 - f. Consultants and counsel rendering temporary professional services under contract.
 - g. Part-time employees who are employed for less than one-third time or who are employed in seasonal or temporary employment for not more than one hundred twenty calendar days in any consecutive twelve months.
 - h. Students or inmates employed in any state institution including, but not limited to, schools, colleges, universities, and hospitals.
 - i. The governor's private secretary, three confidential employees of his office, and such administrative assistants of his office as he may appoint.
 - j. Attorneys-at-law attached to the office of the attorney general.

2. It provides for a full-time civil service commission of three members. They would be appointed for overlapping six-year terms by the governor with the consent of the senate. Removal could be only by resignation or impeachment. The terms of the present members would be extended sixty days.

Commissioners must be persons known to understand and subscribe to the application of merit principles to public employment. Only two commissioners could be of the same political party at any time. Salaries of the commissioners would be set by the General Assembly.

3. The civil service commission would have the authority to make and enforce rules governing tests, classifications, eligibility, probation, standards, promotions and discipline.

4. The amendment provides that, within limits as may be prescribed by law, the civil service commission could determine the number of persons from an eligible list from which the appointing authority may make selections to fill vacancies.

5. Appointments in the classified civil service would be based on merit as determined by competitive tests and on performance as measured by records of achievement. There could be no discrimination for political reasons or because of race, color, creed, sex, or place of national origin.

6. Permanent employees would hold their respective positions during efficient service. Removal, suspension, or demotion could be only upon written charges, with hearing and the right of appeal as provided for. The General Assembly would be authorized to provide for a flexible retirement procedure. Certified employees appointed to exempt positions by elected officials would retain all their rights and be reinstated upon the termination of such appointment.

7. The General Assembly would provide a pay grade plan. Comparable classes would be assigned by the civil service commission to a pay range, and allocation to a pay range would be based on economic data, including but not limited to competitive employment factors, cost of living, job productivity and responsibility, and comparable rates of pay.

8. Promotions would be on the basis of demonstrated efficiency and performance, or by tests, or both.

9. Initial appointments from an eligible roster would be for a probationary period not to exceed one year. Provisional appointments for a period not to exceed eight months could be made if there is no eligible roster.

10. The amendment provides that present certified employees would retain certified status. Provisional employees who have served in the class for two or more years would receive permanent status.

Provisional employees who have served in the class for at least one year but less than two years would receive probationary status. Provisionals who are not eligible for permanent status in their present class, but who have served for two or more years in a different class, would receive permanent status in the different class.

11. Where an eligible list exists, no transfers would be made from a position of like grade as between departments unless the civil service commission feels that such transfer would be in the best interest of the state service.

12. The amendment provides that the General Assembly shall make adequate annual appropriations to enable the commission to carry out the purposes of the amendment.

Comments.

Most state governments have provided civil service status for their employees either by constitutional or statutory law. Colorado's civil service is established by constitutional provision, so that any fundamental change must be made by constitutional amendment.

The amendment provides for the following major changes from the present constitutional provisions governing civil service:

1. The rule of one could be changed so that instead of only the top person on the list being certified for a job, the commission may determine, within limits as prescribed by law, how many persons may be certified so that a state agency may have a choice in filling a position.

2. The amendment authorizes a probationary period of not to exceed one year after a person is employed. At present, there is no probationary period, and once a person is certified to a position he has tenure.

3. At present, promotions may be made only after competitive examinations. The proposed amendment provides that promotion may be determined by demonstrated efficiency and performance, by tests, or by both.

4. The requirement that all appointees be qualified electors of the state is eliminated.

5. The commissioners' salaries would be fixed by the General Assembly, eliminating the present constitutional minimum salary provision.

6. Appointments to the civil service commission would be made earlier in the governor's term than is possible under the present provision.

7. At present the governor alone appoints the commissioners; the proposed amendment provides that the governor shall appoint with the consent of the senate.

8. The proposed amendment adds the provision that only two members of the commission may be of the same political party at any time.

9. The list of persons exempt from civil service is revised.

- a. Present. Officers and employees of the General Assembly; judges of courts of record and one stenographer for each judge; one clerk for each court of record; persons appointed to perform judicial functions; receivers and jurors are exempt.

Proposed. These exemptions would be continued under the provision of the proposed amendment which places under civil service only officers and employees in the executive branch.

- b. Present. Members of boards or commissions appointed by the governor and serving without pay are exempt.

Proposed. The proposed amendment continues these exemptions under a provision exempting members of part-time boards and commissions appointed by the governor. In practice, all of these positions have been exempt even though some receive per diem compensation.

- c. Present. Members of the state industrial commission, the public utilities commission and the civil service commission are currently exempt.

Proposed. These exemptions are continued, and the members of the state land board are added. The latter are currently exempt under another constitutional provision.

- d. Present. The governor's private secretary and three confidential employees of his office are exempt.

Proposed. Under this amendment the governor's administrative assistants would be exempt in addition to the above. Current practice has been that the governor's administrative assistants are under civil service but do not take the examination to receive permanent status.

- e. Present. Appointees to fill vacancies in elective offices are exempt.

Proposed. These appointees would be exempt under the proposed provision exempting elected officers "and those whose different manner of appointment is prescribed by the state constitution."

- f. Present. One deputy of each elective officer is exempt.

Proposed. In addition to one deputy, one stenographer of each elective officer would be exempt.

- g. Present. Officers and teachers in educational institutions not reformatory or charitable in character are exempt.

Proposed. The proposed amendment exempts faculty and administrative officers of state colleges and universities. It would remove the current exemption for educational staffs of educational institutions other than colleges and universities, such as schools for the mentally retarded, deaf and blind and the children's home. The exemptions for the superintendents of state schools for the mentally retarded and the director of the department of rehabilitation would be continued.

The commissioner of education and the assistant commissioners, professional educational and consultative employees of the department of education would be specifically exempted. These officers are currently exempt in accordance with a court ruling.

The amendment would also continue the exemption of administrative and executive officers and curators of the state historical society.

- h. Present. All attorneys at law serving as such are exempt.

Proposed. The provision would be clarified to exempt only attorneys at law attached to the office of the attorney general. This is not a change in present practice. Attorneys in consultative or other capacities might be exempted under other provisions of the amendment.

- i. Proposed. The proposed amendment adds an exemption for consultants and counsel rendering professional services under contract. This does not change current practice.

- j. Proposed. Exemption for part-time employees who are employed for less than one-third time or who are employed in seasonal or temporary employment for not more than 120 days in any 12-month period would

be added. Most of these employees are currently exempt from competitive examination but are subject to other provisions of civil service. Some are not under civil service at all.

- k. Proposed. Students or inmates employed in any state institution, including, but not limited to, schools, colleges, universities and hospitals, would be exempt. This is not a change in current practice.

Popular Arguments For:

1. This amendment provides the means by which the antiquated state civil service system can be altered to meet the personnel needs of a modern state government without destroying the safeguards or altering the philosophy of a personnel merit system.

2. The provision of "blanketing in" without examination will give permanent status to provisional employees and offer security to those who have served the state for a long period of time without having been given an opportunity to take the civil service examinations which would permit them to achieve certified status.

3. The probationary period will provide an additional check on the capabilities of new employees and make it possible to remove incompetent persons before tenure makes such action difficult.

4. The limitations on new provisional employees will make it impossible to have large numbers of provisional employees who remain in state service a number of years without achieving permanent status.

5. Removal of the "qualified elector" requirement would allow the hiring of persons under 21 years of age, and those who have not been residents of the state for one full year.

6. By clarifying provisions relating to conditions for promotion, this amendment makes it possible to have a career service in state employment. Demonstrated efficiency and performance are necessary factors to be considered in promotion in addition to tests.

7. Removal of the rule of one provision from the constitution will permit the commission and the General Assembly to increase the number of persons certified as eligible for appointment. Allowing selection from a group of applicants permits consideration of all qualifications by the employing agency.

8. By requiring that no more than two commissioners can be from one political party, this amendment assures that no party will have full control of the commission.

Popular Arguments Against:

1. This amendment does not make the major changes needed in the organizational structure or powers of the civil service commission.

- a. For example, a part-time commission with a full-time personnel director hired by the commission would be more satisfactory than a full-time commission.
- b. Veterans' preference in the matter of promotions should be eliminated.
- c. This proposal continues excessive power in the civil service commission. The merit system should be provided by law rather than by a commission that is not accountable to the people.

2. The present civil service provisions do not need revision. The proposed changes are not desirable.

- a. For example, the proposed amendment would give the governor greater control over the civil service commission through the provision which allows the governor to make appointments to the commission earlier in his four-year term.
- b. The automatic "blanketing in" (grant of permanent status) for all provisional employees might result in the retention of incompetent workers.
- c. If the rule of one were eliminated under the provision of this amendment, discrimination against minority groups might occur.

PROPOSAL NO. 2 -- COUNTY GOVERNMENT

Provisions. This amendment:

1. allows a county of over 75,000 population to change or abolish its county officers, or to change their terms of office or the method of selecting them, if such changes are authorized by statute and approved by the voters of the county;
2. removes the two-year limitation on the term of office of local officials, other than those established elsewhere in the constitution, including township, precinct and municipal officers;
3. allows the General Assembly to base the salaries of county and precinct officers on factors other than county population;
4. authorizes the payment of a salary to certain county and precinct officers now required to be paid solely from the fees they collect;
5. gives each board of county commissioners the option of appointing its county attorney or having him elected. This option now rests with the General Assembly.

Comments.

1. The constitution establishes eight county officers (clerk, sheriff, coroner, treasurer, superintendent of schools, surveyor, assessor, and attorney) and requires that every county shall elect all of them every four years. The amendment would permit any county over 75,000 population to modify its county government provided that the General Assembly passes a law authorizing the proposed change and also that the voters of that county approve it at an election. Under these circumstances such a county could:
 - a. change, combine or abolish any of these offices;
 - b. alter their terms of office; or
 - c. select any of these officers by appointment instead of by election.

The provisions of this amendment which relate to these changes apply only to those counties over 75,000 population. The preliminary 1960 federal census indicates that Adams, Arapahoe, El Paso, Jefferson and Pueblo Counties have more than 75,000 people. Denver would not be included because of another constitutional provision which makes it a consolidated city and county.

This amendment does not affect the offices of county commissioner or county judge which are provided for in other sections of the constitution.

2. The constitution now provides that the terms of county, township, precinct and municipal officers created by law (as opposed to constitution) cannot exceed two years. The amendment eliminates this limitation. This change would allow the General Assembly to provide for overlapping terms for council members in non-home rule cities. The elimination of the two-year limitation is the only portion of the amendment which would affect cities and towns.

3. Existing constitutional provisions require the General Assembly to classify counties by population and then set salaries for county officers according to county classification. The amendment provides for the repeal of these provisions, thus allowing consideration of factors other than county population. The controlling language would simply provide that "The compensation of all county and precinct officers shall be as provided by law."

4. Certain officers such as justice of the peace, constable, and sheriff are presently required to be compensated solely out of the fees they collect. The amendment permits these officers to be paid salaries from general county funds even if the fees they collect are insufficient to pay the salaries stipulated.

5. The office of county clerk is retained as a constitutional office but the requirement that the county clerk must be the "clerk of the board of county commissioners" is eliminated.

6. Under present constitutional provisions, the county attorney may be either elected or appointed as provided by law. The amendment provides that this option shall rest with the board of county commissioners. There is presently a state statute that requires the county attorney to be appointed and all counties do appoint this officer. Essentially, this amendment is merely a technical change in the wording of the constitution, and it is not expected that it would significantly affect the present method of selecting a county attorney.

Popular Arguments For:

1. Local control - to the maximum extent compatible with the general good - is a fundamental principle of our democracy. We need to strengthen and adapt our local governments so that the people would be more able to resolve local problems at the local level.

2. Under present constitutional provisions, the larger counties are required to operate with a governmental structure that does not meet their needs. Permitting the establishment of a more effective form of government organization would enable large urban counties to be streamlined to provide more economical and efficient service.

3. Eliminating the constitutional requirement for fixed terms of office would enable the General Assembly to provide more stability and continuity of local governmental affairs.

4. Counties over 75,000 population could be empowered by the General Assembly to appoint a county manager under the commissioners to give more effective direction to the operations of county government.

5. Salaries of public officials could be more realistic if based on factors other than county population.

6. Eliminating the provision requiring certain county officers to be compensated from the fees of their office and providing for the payment of salaries to such officers would remove the temptation which may sometimes be present for them to abuse their power in an effort to increase their income from fees.

7. By authorizing the General Assembly to enact legislation permitting large counties to streamline county government organization, the amendment encourages the development of county self-governing powers adapted to changing local needs and demands for services.

Popular Arguments Against:

1. This amendment does not treat large counties in the same way as small counties. Since counties are created by the state to administer certain functions at the local level, all counties should be treated in the same way.

2. The provision in this amendment authorizing changes in the structure of county government in those counties over 75,000 population is too vague and uncertain, because there is no way to tell in advance exactly what changes will be made. If changes in county government are made, they should be specific and uniform and spelled out in the constitution.

3. Consistent with the democratic tradition, county officers should be elected. By permitting a change in the method of selecting the officers of large counties, this amendment jeopardizes this tradition and would reduce the control of the people.

4. There is no reason to remove the two-year term of office limitation for local officials. The purposes of democracy are better served when elected officials are held accountable to the people each two years.

PROPOSAL NO. 3 -- GAME AND FISH COMMISSION

Provisions.

1. This amendment would abolish the present Game and Fish Commission and create the Colorado Wildlife Management Commission, effective January 1, 1961. It would vest in the Wildlife Management Commission the control, management, restoration, conservation and regulation of the birds, fish, game, and wildlife resources of the state. This includes the acquisition, establishment, and use of hatcheries, sanctuaries, refuges, reservations, and all other property for such purposes.

2. The new commission would be given authority to acquire by purchase or gift any property or interests in property necessary, useful or convenient for its purposes.

3. The commission could exercise the right of eminent domain for the purpose of acquiring reasonable and necessary easements or rights of way for public access to and from public lands in the manner provided by law for the state highway commission.

4. Expenditures from the Game and Fish Cash Fund would be made by the commission without appropriation by the General Assembly. The commission would submit its annual budget to the governor and the General Assembly but approval would not be required.

5. The Game and Fish Cash Fund would be expended and used by the commission for the purposes mentioned in 1, 2, and 3 above, and for the administration of the laws pertaining thereto, and for no other purpose, with the following exception:

The commission would allocate and transfer to the general fund each year such sums as the commission would determine reasonable and proper as compensation for general state services rendered to the commission, but not to exceed two percent of its gross revenues (exclusive of receipts from the federal government).

6. The new commission would be composed of five members. One would be the director of natural resources (non-voting). The four voting members would be appointed by the governor for staggered six-year terms. Appointees must have knowledge of and have shown an active interest in wildlife conservation and management. No more than two voting members could be of the same political party and no more than one could be from the same congressional district.

7. If appointments to fill vacancies are not made by the governor within thirty days, the remainder of the commission would fill the vacancy.

8. The governor would be authorized to remove a commissioner for inefficiency, neglect of duty, or misconduct in office. Provision would be made for written notice and hearing.

9. The members of the commission would not receive any salary but would be reimbursed for expenses.

10. The amendment would establish a Department of Wildlife Conservation headed by an executive director. The commission would fix all policies and issue all regulations, and the executive director would administer and execute such policies and regulations.

11. The commission would appoint the executive director and fix his duties and compensation. The executive director would employ and fix the duties and compensation of such officers and employees as he from time to time deems necessary. The executive director and the officers and employees appointed by him would be under the civil service laws. No member of the commission could be an appointee or employee of the commission or executive director.

12. The present director of the Game and Fish Department would be the first Executive Director of Wildlife Conservation, and all officers and employees of the Game and Fish Department would continue as employees of the executive director.

13. The commission would issue the rules and regulations necessary to: issue licenses; regulate bag limits; fix seasons; fix the means and manner of taking game, fish and other wildlife; to establish refuges or sanctuaries; and for internal management; and to accomplish all purposes incidental to or relating to the foregoing. These rules and regulations (except for those relating to commission organization and internal management) would be filed with the secretary of state and would be effective not less than ten days after publication.

14. Copies of rules and regulations would be supplied on request. The violation of any such rules and regulations of the commission would be a misdemeanor. Such rules and regulations affecting private rights as are judicial or quasi-judicial in nature would be subject to judicial review. Forty-eight hours' public notice must be given when emergency conditions require the closing of any season in any area.

15. The amendment would be self-enacting and self-enforcing. Laws inconsistent with the amendment or with regulations issued by the commission would no longer remain in force or effect. Laws not inconsistent therewith would remain in effect or may be enacted in aid thereof.

Comments.

The amendment would establish a constitutional commission and department outside the control of the General Assembly, whereas the present commission and department are statutory and therefore subject to legislative regulation. The proposed amendment allows the new commission to operate independently and provides that laws inconsistent with commission rules and regulations shall no longer remain in force and effect.

The powers, duties and composition of the new commission would differ from those of the present commission in several major respects:

1. The new commission would have complete control over the budgeting and expenditure of the moneys from the Game and Fish Cash Fund. The present commission cannot expend these funds without legislative appropriation.

2. The amendment authorizes the new commission to exercise the right of eminent domain to acquire easements or rights of way for access to public lands. At the present time, the commission's power of eminent domain is limited to access to fishing streams and is limited further by a provision that the action may be dismissed if either the landowner or the commission refuses to agree to the amount awarded.

3. The new commission would have four voting members, one from each congressional district and two from each party. The present commission is made up of eight voting members, one from each of eight Game and Fish districts. The ex officio member of the new commission would be the director of natural resources; the governor is the ex officio member of the present commission.

4. The new commission would have complete control and regulation of not only game but all wildlife.

The following provisions of the amendment do not differ substantially from present statutory provisions: the appointment of commission members by the governor; staggered six-year terms; non-salaried status of the commission; and civil service status for the director and employees.

It is not clear whether the commission would have the authority to set license fees, although the section giving the commission the authority to promulgate new rules and regulations necessary to issue licenses might be so construed.

Popular Arguments For:

1. For many years efforts have been made to have the General Assembly enact needed legislation to provide access to blocked areas of public lands now closed. The General Assembly has passed no legislation, but it did appoint a committee to make a study of the matter and in January, 1959, that committee reported that about 236 landowner or lessees are blocking access to approximately 1.4 million acres of public land. The passage of this amendment would provide a practical way to obtain access to these public lands.

2. This amendment would not give the public the right to trespass across private lands. The commission is, however, given power to acquire roadways across private property for access to public lands. The proposal will relieve the pressure which brings about trespass by permitting access to public lands without the need to trespass across private lands.

3. The proposal does not give unreasonable power of eminent domain to the new commission. The power to acquire necessary rights of way has long been vested in many governmental agencies and utilities: the state highway commission, county commissioners, public utilities, railroads, mining companies, irrigation companies, and many others. Twenty-six other states have given their game and fish commissions power of eminent domain--some full power, some limited. Although local county governments in Colorado have the power of eminent domain they have not used it to provide access roadways for recreational uses.

4. Tourism and recreation is the second largest industry in Colorado. This amendment will permit its full development by providing access to heretofore inaccessible public areas.

5. Our present commission is made up of eight members, who represent small districts. In actual operation they act as representatives of their districts alone and tend to overlook the state-wide problems of conservation and management. Experience in other states and in other Colorado agencies shows that the small executive-type commission can function much better.

6. Freeing the game and fish revenues from legislative control is not dangerous. In Colorado, specified revenues are set aside for old age pensions and for highway uses without legislative appropriation.

7. In many states, it is a general practice for game and fish commissions to have the prime responsibility for the budgeting and expenditure of revenues derived from hunting and fishing license fees. Experience has shown that these functions are best handled by a qualified and experienced board.

8. The General Assembly will retain the power and duty to fix license fees and provide penalties and punishment for violations of the game and fish laws and commission regulations under the proposed amendment.

Popular Arguments Against:

1. The small appointive commission established by the amendment is not representative or responsible government. The General Assembly, the legislative branch of government responsible to the people, would have no control over a major department of this state.

2. Laymen might not be permitted as members of the commission, because the proposed amendment states that the appointees must "have shown an active and constructive interest in wildlife conservation and management." This might be construed to mean that only "professionals" are qualified for membership on the commission.

3. License fees could be established at any amount by the new commission, and its seasons for hunting and fishing could be set without regard for other phases of conservation or multiple uses of public lands.

4. Under the final article of the amendment, all present laws and all made in the future by the General Assembly "inconsistent with this Article or with regulations issued by the Commission hereunder shall no longer remain in force or effect." This means that the commission would actually be more powerful than the General Assembly and the governor.

5. Regardless of injury to an area or to landowners, the commission has the right under the amendment to condemn property and establish access roads under any circumstances it sees fit.

6. The Game and Fish Commission does not need the power of eminent domain inasmuch as county commissioners and the state highway commission presently have this authority.

7. Eminent domain proceedings are costly. This money might better be spent for the stocking of streams which are already accessible.

8. The budget should not be made by the commission and administered by the department without legislative review or the governor's approval. This proposed "open check book" policy is not good government. A budget that cannot stand legislative review is not a good budget.

9. This amendment would permit the commission to define misdemeanors by rule and regulation. Only the General Assembly should be permitted to define any act constituting a crime.

PROPOSAL NO. 4 -- DAYLIGHT SAVING TIME

Provisions.

This proposal provides that the standard time in Colorado from 1:00 a.m. of the last Sunday in April to 2:00 a.m. of the last Sunday in September would be one hour in advance of U.S. Standard Mountain Time.

It makes daylight saving time applicable to the following:

1. all laws, statutes, orders, decrees, rules and regulations relating to:

- a. the time of performance of any act by any officer or department of this state or its political subdivisions;
- b. the time in which any rights shall accrue or determine;
- c. the time within which any act shall or shall not be performed by any person subject to the jurisdiction of the state.

2. all the public schools and all other institutions of this state, or of any county, city and county, city, town or district thereof;

3. all contracts or choses in action made or to be performed in this state.

Comments.

This is a proposed law, not a proposed constitutional amendment.

Popular Arguments For:

1. There are at least 24 states in the United States that observe some type of daylight saving time during the summer months. This represents over half of the population in our country. It is also generally observed in Canada.

2. Daylight saving time would enable all of us to enjoy 153 additional evening hours of daylight each year. The greatest advantage is to the average Colorado family, which would have more daylight time to spend together during leisure hours.

3. The fact that Colorado has failed to adopt daylight saving time has resulted in a three-hour time differential between Colorado and eastern states, which makes it extremely difficult to carry on business communications with them.

4. Many Colorado companies have their own version of daylight saving time, either because it re-establishes a time-par with other areas in the country already on daylight saving time, or because it is popular with employees during the summer months.

5. Adoption of daylight saving time would provide a substantial boost to the tourist business in our state by providing an additional evening hour for tourists to see and enjoy Colorado, as well as another evening hour for them to spend more money while they are here.

6. It has been estimated that tax-supported recreational facilities throughout the state, such as swimming pools, golf courses, tennis courts, parks, etc., would be used an additional 25 percent as a result of daylight saving time. This additional usage would relieve pressure exerted on these facilities during weekends by spreading the use-load more evenly throughout the week.

Popular Arguments Against:

1. Daylight saving time is a fallacy and a delusion in that people try to put 25 hours into a 24 hour day. It cannot be done. If you play an hour longer, you must either sleep or work an hour less.

2. One of the retail merchant's big worries now is the prolonged hours that some of his competitors stay open. With daylight time this problem would be much worse.

3. Daylight saving time would result in hardships for the amusement industry. It might result in some loss of state tax revenues from these taxpayers.

4. Several of the states cited by the proponents of this measure do not have statewide daylight saving time. In some of these states it is in effect in only a few cities or counties. None of the states surrounding Colorado have adopted daylight saving time.

5. Family routines are disrupted by daylight saving time. Late evening sunlight may cause late suppers and late bedtime for the children. Parents would lose that part of the day when the children are in bed and they can have a quiet hour or two to themselves. In the spring and fall some school children and some working people would have to arise before daylight.

6. Daylight time causes confusion and inconveniences in travel, distant phone calls, and appointments. Mail is often delivered a day late because planes and trains continue to operate on standard time, which causes the mail to miss the advanced local deliveries.

7. Nature continues to follow the natural time. This creates confusion and difficulties in deliveries of milk and perishable farm produce. Farmers are at a disadvantage under daylight time because field work is often delayed an hour in the morning until the dew is off.

PROPOSAL NO. 5 -- LOCAL SALES TAX

Provisions.

This amendment authorizes the General Assembly to enact legislation permitting counties; cities and counties; cities; and towns to impose and collect a two percent retail sales and use tax. The act authorizing the imposition of the tax would provide:

1. The tax would be imposed only at the option of the county by one of these two methods:
 - a. A vote of the electors of the county.
 - b. Formal action of the board of county commissioners.
2. The tax could be repealed by a vote of the electors of the county.
3. Revenue from the tax adopted by the county would be for county purposes unless a city or town within the county adopts a like tax and thereby receives all or part of the tax collected within its boundaries. The tax accruing to the city or town would be credited against the amount otherwise due the county.
4. The county could limit the imposition of the tax by cities and townson either of these bases:
 - a. the percentage of the tax which may be retained by the municipal corporation.
 - b. the gross amount per capita of the residents residing within such municipal corporation.
5. The tax would be uniformly imposed within the county, provided that any city or town situated in more than one county could impose the tax if any county in which such city or town is partially situated imposes the tax, so that the tax would be uniform within such city or town.
6. The following exemptions would be allowed:
 - a. food which is to be consumed off the premises of the vendor;
 - b. drugs;
 - c. articles on which a sales or use tax has been paid in any other county or other municipal corporation in this state.

7. The tax would be imposed at the following rates:

- 1¢ on sales from 19¢ to 68¢;
- 2¢ on sales from 69¢ to \$1.18;
- 3¢ on sales of \$1.19 to \$1.68;
- 1¢ to be added for each 50¢ additional selling price above \$1.68.

8. The resolutions and ordinances imposing the tax would be in substantial uniformity with state sales and use tax legislation.

The tax would be used for local purposes and would not be subject to the constitutional allocation of sales taxes for old age pensions.

This amendment would not abridge the right of a home rule city, or a city and county, to impose sales and use taxes under the authority granted in Article XX of the Constitution. However, if a county imposes a tax under this amendment, all sales taxes levied by cities and towns within the county, including home rule cities, must be in conformity with the county tax.

Comments.

This is in effect a county option sales tax amendment with provision for distribution of revenues to cities and towns within the county. The amendment is not self-enacting. Local sales taxes would not be permitted until the General Assembly passed enabling legislation. The two percent local tax would be in addition to the two percent state tax.

The proposed tax would be in substantial uniformity with the state sales tax except that it exempts drugs and food for consumption off the premises.

Popular Arguments For:

1. This amendment will enable cities and counties in the state to obtain additional non-property tax revenues. Although the amendment, if passed, may be particularly helpful to metropolitan areas, the provisions need not be limited to these areas. Counties, cities and towns which do not need additional revenues could use the local sales tax as a partial replacement for the property tax.

2. County option sales taxes such as the one proposed in the amendment have been adopted in other states. California and Utah are examples.

3. The Denver metropolitan area problem is broad enough to cover the whole metropolitan area, and the need for facilities which the sales tax moneys can build has been recognized by all metropolitan area leaders; consequently general agreement as to the need for the

tax has been reached. It is probable that if this amendment is passed, the adoption of the sales tax would be uniform in the four metropolitan area counties.

4. A large proportion of the sales tax would be paid by tourists who are not residents of Colorado.

5. By exempting drugs and sales of food for off-premises consumption, the proposed tax eliminates the objection that the sales tax is regressive.

6. The proposed tax would be economical to administer. For most counties, the state would collect the tax along with the state sales tax and return it to the county of origin. A small fee would be charged.

7. This tax would be easier on the taxpayer than some types of taxes. It requires no additional records or complicated returns and no large lump-sum payment.

Popular Arguments Against:

1. The sales tax is a regressive tax, being most burdensome for those persons who are least able to pay. This is especially undesirable when the tax is imposed at a four percent rate, as it would be in counties adopting the two percent local tax on top of the two percent state tax. The exemptions provided under the amendment are not sufficient to eliminate this objectionable feature of the sales tax. Sales of many necessary items, including transportation and clothing, would be taxable under the proposed amendment.

2. The proposed amendment does not provide any non-property tax alternatives to the sales tax as a method of raising revenues for local purposes (for example, a progressive rate income tax).

3. The amendment does not provide for any central agency to prevent overlapping tax burdens and promote coordination of local tax structures.

4. A sales tax should be identical on state and local levels. To exempt some items at the local level but not at the state level imposes hardships on retailers who deal in a combination of taxable and non-taxable items. It means that the retailer must figure state and local taxes separately, a costly and time-consuming operation. A tax identical at the state and local levels could easily be collected by a central agency and redistributed to local taxing units. The percentage retained by retailers for collection costs could be figured once, not twice as under the proposed amendment, and it is possible that collection costs might be reduced.

5. Although the proponents of this amendment cite the possibility of property tax reduction, it is more likely that added revenues would result in added expenditures than in the reduction of property taxes.

6. Collecting the tax at the place of sale favors the Denver metropolitan area and other urban centers.

PROPOSAL NO. 6 -- LEGALIZED GAMBLING

Provisions.

1. This amendment legalizes gambling and provides that persons involved in gambling operations must obtain all required federal, state, county, and municipal gaming licenses.

2. It does not require licenses for social games played solely for drinks or cigars or cigarettes served individually, games played in private homes for prizes, or coin machines operated solely for cigars, cigarettes, drinks or golf balls.

3. The proposed amendment creates a full-time gaming commission consisting of three members appointed by the governor for four-year staggered terms.

4. Commission members must be U.S. citizens and residents of Colorado. Only two members of the commission may be members of the same political party. Salaries would be fixed by the General Assembly. Commissioners and employees of the commission would be exempt from civil service.

5. The gaming commission would have full power and authority to issue licenses and to deny or revoke licenses for any cause deemed reasonable by the commission, to investigate the qualifications of applicants therefor and to issue rules and regulations relating thereto.

6. The state gaming commission would appoint a five-member part-time state gaming control board for four-year staggered terms. Compensation of board members would be fixed by the General Assembly. Board members and employees would be exempt from civil service.

7. The gaming control board members must be U.S. citizens and residents of Colorado. They cannot be pecuniarily interested in any business or organizations holding a gaming license or doing business with any persons or organization licensed under this provision.

8. The gaming control board would have power and authority to recommend to the commission the denial of any application for license, or the restriction of such license or the suspension or revocation of any license, for any cause deemed reasonable by the board.

9. Meetings of the gaming control board would be open to the public. Investigative hearings may be conducted in private at the discretion of any member. Records of both the board and the commission would be open to public inspection.

10. For the purpose of the administration of this amendment, the commission, the board and their agents, inspectors and employees would be invested with the powers of peace officers of the state of Colorado.

11. The attorney general would be the legal advisor for the commission and the board.

12. Licensees would be required to pay to the state the following percentages of gross revenue per quarter:

Under \$150,000	2%
\$150,000 - \$400,000	3%
\$400,000 - \$1,000,000	4%
\$1,000,000 and over	5%

13. Revenues from the above source would be allocated as follows:

State General Fund	25%
State Public School Fund	25%
Veterans Bonus Fund	25%
Old Age Pension Fund	25%

14. The Veterans Bonus Fund is established by this amendment for the purpose of paying a bonus to citizens of Colorado who served in the armed forces during time of war or other armed conflict. Provisions for the payment of this bonus would be prescribed by the General Assembly.

15. Costs of administering this amendment would be paid from the state general fund.

16. License fees would be charged as follows:

Games -- \$50 per month for the first game and \$25 per month for each additional game
Slot Machines -- \$25 per month for the first machine and \$10 per month for each additional machine

17. License fees would be allocated to counties and municipalities. If the premises are located within a municipality, 50% of the fees would be paid to the general fund of the municipality and 50% to the general fund of the county. If the premises are located outside a municipality, the entire proceeds derived from license fees would be paid to the general fund of the county.

18. Counties and municipalities may require license fees of not less than \$10 per month per game and not more than \$25 per month per game. (License fees for slot machines could not exceed \$10 per month per machine.)

19. Shipments of gambling devices into this state would be deemed legal shipments. This amendment exempts Colorado from the federal act prohibiting transportation of gambling devices in interstate and foreign commerce.

20. Violation of this amendment would be deemed a high misdemeanor, punishable by a fine not exceeding \$5,000 or by imprisonment in the county jail for not to exceed one year, or both.

Comments.

This proposal amends Section 2 of Article XVIII to legalize gambling in Colorado. Some provisions are similar to those permitting gambling in Nevada.

The amendment establishes a full-time three-member commission and a part-time five-member advisory board to license persons to operate games and gambling devices and collect state revenues and license fees resulting therefrom.

Revenues would be used for specified state purposes. License fees would be used for local purposes.

Popular Arguments For:

1. This amendment will provide additional state revenue for the general fund, public school fund, a newly created veterans bonus fund and old age pension fund. It will also increase revenues for the general funds of counties and municipalities.

2. The state already permits pari-mutuel betting on dog and horse racing, lotteries and bingo for religious and charitable organizations. If the state legalizes gambling in these forms, why should it prohibit other types of gambling?

3. Some gambling goes on in the state today in spite of laws prohibiting it. By legalizing these games the state could control them and receive revenues from them.

4. The amendment does not cover social games or games played in private homes for prizes.

5. The Veterans Bonus Fund created by this amendment would be a method of benefiting citizens of Colorado who served our country during time of war.

Popular Arguments Against :

1. Gambling is a moral and social evil. It undermines our economic order, favors the philosophy of getting something for nothing, encourages habits of idleness and indolence as opposed to industry, preys upon psychological infirmities of individuals, and leads to social demoralization.

2. The historic relationship between gambling and other crime and vice, particularly "big crime", is well established, and this relationship will quite likely continue wherever gambling is permitted to flourish.

3. The amendment sets no qualifications for holding a gambling license. There are no standards for determining whether the holder of a license is conducting his operation in a suitable manner. The commission is given unlimited discretion.

4. The provisions of this amendment are patterned after those of Nevada. However, there are additional provisions in the Nevada law not appearing as a part of this constitutional amendment which impose additional restrictions.

5. Although this amendment is patterned after the Nevada gambling law, it should be noted that the Nevada provisions are statutory, not constitutional. If gambling is to be permitted in Colorado it should be by law so it can be controlled by the people.

PROPOSAL NO. 7 -- STATE CABINET

Provisions.

1. This amendment provides that the governor may appoint an administrative officer for each of the following twelve separate state departments;

- | | |
|----------------|-------------------------|
| a. Agriculture | g. Industrial Relations |
| b. Budget | h. Institutions |
| c. Commerce | i. Natural Resources |
| d. Employment | j. Planning |
| e. Health | k. Revenue |
| f. Highways | l. Welfare |

2. These administrative officers would be given primary and exclusive executive authority over the policies and administration of their respective departments.

3. Appointments would require the consent of the senate.

4. Appointees would serve at the pleasure of the governor.

5. The amendment would exclude these administrative officers from the classified civil service of the state.

6. Appointees must be qualified and competent citizens of the United States.

7. The appointees would be paid such compensation as may be provided by law.

Comments.

This amendment establishes the power of each governor to appoint and remove his own major department heads. This power would enable him to have what has been called a "cabinet" -- a group of close advisors who would be responsible to the governor for the conduct of their offices.

Popular Arguments For:

1. The governor now appoints only five policy-level employees. These are: Purchasing Agent, Confidential Secretary, Director of Revenue, Director of Institutions, and Director of Natural Resources. Other powerful officials are protected by civil service provisions and are not directly responsible to the governor or to the voters.

In a democracy, authority and responsibility should be in the hands of an elected official who is ultimately accountable to the vote. This promotes state government which is both responsive and responsible. Citizens should be able to place blame for defective administration of

government. The proposed amendment would centralize responsibility for twelve important areas of administration in a single elected official -- the governor.

2. Colorado's state government is a collection of expensive "empires". Excluding education, there are 90 divisions, departments and agencies which are supervised by 15 boards, committees, and commissions. This amendment would probably place several of these boards and commissions in an advisory rather than a policy-making capacity. Primary and exclusive executive authority over the policies and administration of the twelve departments would rest with the governor's appointed administrative officers. By thus reducing the autonomy and lack of centralized authority in these departments, the proposed amendment could increase coordination, efficiency and economy in state government.

3. The adoption of this amendment would not mean greater cost for the operation of state government. Salaries, under this amendment, would be established by the General Assembly. There probably would be no increase in total salaries. Further, resultant economy in over-all efficiency would decrease the total cost.

4. Colorado is one of the few states which prohibit their governor from appointing key department heads. Most others are similar to the federal government in which the leader of the executive branch has power to appoint policy-level department heads. In contrast to our state government, the City of Denver has more than 70 management level officials -- including an eight member "cabinet" -- who serve by appointment of the mayor.

5. The amendment would eliminate the escape tactic which governors now have of contending they have no control over a particular department inasmuch as it is headed by a civil service employee.

6. Adoption of this amendment would enable a governor to better carry out the campaign promises on which he was elected.

7. This amendment would exempt only the top policy making officers from the classified civil service -- not the employees of the departments. It would not be a return to the spoils system.

Popular Arguments Against:

1. The proponents of this amendment claim that it would provide better government but have not shown how it would do so. We have good government now. For example, our highway department, welfare department and health department all rank high nationally under the present system. Why should we change it?

2. Because of the provision giving the governor's appointees "primary and exclusive executive authority" over policies and administration in their respective departments, the proposed amendment would probably take away the policy-making authority of five existing

state boards and place them in an advisory capacity. The boards affected would be the highway commission, board of health, welfare board, board of agriculture, and the game and fish commission.

The amendment would concentrate power in a few, rather than leaving it in the hands of representatives from throughout the state. It was only eight years ago that the General Assembly decided to increase the policy-making authority of the highway commission. If commission-type government was a good idea in 1952, why is it not equally so in 1960?

3. The statutes already provide for a governor's council. Why has this section not been activated? What does the proposed amendment provide that could not be accomplished under the existing statutes?

4. The proposed amendment would result in more patronage appointments for the governor. It has not been shown that these additional appointments would improve our state government.

5. The amendment would superimpose another set of administrative officers over the present boards and department heads with no clear cut duties provided by law.

6. It is claimed that Colorado should give the governor the authority to appoint and remove department heads because other states do so. This is not a valid argument, since in spite of its non-conformity, Colorado excels many of these other states in certain fields under our present system.

7. This should be an enabling act so that the General Assembly could by law create cabinet positions as the necessity and desirability arise.