

Amendment 68

Colorado Legislative Council Staff
FISCAL IMPACT STATEMENT

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TITLE: HORSE RACETRACK CASINO GAMBLING

Ballot Question: 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; ALLOCATING THE RESULTING TAX REVENUES TO A FUND TO BE DISTRIBUTED TO SCHOOL DISTRICTS AND THE CHARTER SCHOOL INSTITUTE FOR K-12 EDUCATION; AND AUTHORIZING HOST COMMUNITIES TO IMPOSE REASONABLE IMPACT FEES ON HORSE RACETRACKS AUTHORIZED TO CONDUCT LIMITED GAMING?

Fiscal Impact Summary*	Fiscal Year 2015-16	Fiscal Year 2016-17
State Revenue	\$67,235,140	\$85,033,743
K-12 Education Cash Fund	\$81,870,642	\$114,500,000
Limited Gaming Cash Fund	(\$14,635,502)	(\$29,466,257)
State Spending		
General Fund	\$778,360	\$793,114
FTE Position Change	9.0	10.1
Local Government Impact: Increased funding for public schools; increased costs and potential fee revenue for other local governments.		

* This summary shows changes in state government revenue and spending that are directly caused by the measure. The amount shown represents the change from current law. State fiscal years run from July 1 to June 30.

Summary of Measure

Amendment 68 amends the Colorado Constitution to allow limited gaming at horse racetracks in Arapahoe, Mesa, and Pueblo counties. One racetrack in each county may be licensed to offer limited gaming, including slot machines, card games, and other games of chance, with maximum single bets of \$100. Racetracks licensed to conduct gaming are authorized to have 2,500 slot machines or a greater number as requested by the racetrack and approved by the Limited Gaming Control Commission. No restrictions are placed on the number of tables for card games or other games of chance.

To obtain a gaming license, a facility must have operated as a Class B horse racetrack licensed by the Colorado Racing Commission for at least five years as of January 1, 2014, or for five years immediately preceding its application for a license to conduct limited gaming. To be licensed as a Class B horse racetrack, the facility must host 30 live race days each year and allow

pari-mutuel betting on horse races. Because there are currently no racetracks in either Mesa or Pueblo county that satisfy these requirements, only one racetrack, Arapahoe Park in Arapahoe County, would be able to conduct limited gaming until at least 2019.

The measure creates the K-12 Education Fund (fund) in the state treasury. Within 30 days of commencing gaming operations, each racetrack must make a single payment of \$25 million to the fund. Additionally, the fund receives revenue generated from a new tax on limited gaming at horse racetracks, and accumulated interest on the fund balance. Racetrack adjusted gross proceeds (AGP) from limited gaming, defined as the total amount of all wagers made less payments to players, are taxed at a rate of 34 percent. All revenue generated from the tax on AGP is paid to the fund. The treasurer annually distributes the balance of the fund on a per-pupil basis to school districts and the State Charter School Institute (CSI).

The host community may impose an initial impact fee and annual impact fees that are reasonably related to the community's costs resulting from the presence of gaming at the racetrack. The amount of the fee(s) must be negotiated between the racetrack and the host community.

Background. In 1990, voters approved Initiative 4, which permits limited gaming in the cities of Central City, Black Hawk, and Cripple Creek. In 2008, voters approved Amendment 50, allowing extended limited gaming at the discretion of voters in each of the three cities. The Limited Gaming Control Commission establishes rates of taxation on AGP collected at existing casinos. Currently, the commission uses six graduated tax tiers, the highest of which is a 20 percent tax levied on AGP that exceed \$13.0 million during a given fiscal year. In FY 2013-14, the state collected \$104.9 million in gaming tax revenue.

Gaming tax revenue is distributed according to two statutory formulas. Revenue attributable to *limited gaming*, which totaled \$95.2 million in FY 2013-14, is first used to pay administrative expenses related to the regulation of limited gaming and then distributed as follows:

- 10 percent to Central City, Black Hawk, and Cripple Creek, allocated proportionally to the share of tax revenue collected from each city;
- 12 percent to Gilpin and Teller counties, allocated proportionally to the share of tax revenue collected from each county;
- 28 percent to the State Historical Fund; and
- 50 percent to be allocated by the legislature, of which \$35.1 million is distributed to economic development programs pursuant to Senate Bill 13-133, with the remainder deposited in the General Fund.

Revenue attributable to *extended limited gaming* authorized by Amendment 50 totaled \$9.7 million in FY 2013-14 and is distributed according to a separate formula. This revenue is first used to pay administrative expenses related to the regulation of extended limited gaming and then distributed as follows:

- 10 percent to Central City, Black Hawk, and Cripple Creek, allocated proportionally to the share of tax revenue collected from each city;
- 12 percent to Gilpin and Teller counties, allocated proportionally to the share of tax revenue collected from each county; and
- 78 percent to the state's public community colleges, junior colleges, and local district colleges.

Fiscal Impact

State revenue. State revenue is projected to increase \$67.2 million in FY 2015-16 and \$85.0 million in FY 2016-17. The projection for FY 2015-16 represents a half-year impact and includes a one-time fee of \$25 million, paid by the operators of Arapahoe Park racetrack in Arapahoe County. The projection for FY 2016-17 represents a full-year impact for limited gaming in Arapahoe County. Limited gaming in Mesa and Pueblo counties cannot begin before FY 2019-20, and then only if horse racing is established first. Projections assume that Arapahoe Park will satisfy demand for casino gambling in a presently underserved market. If Arapahoe Park does not mature into an attractive destination for customers, revenue to the K-12 Education Fund will be lower and the impacts described below will be smaller.

Tax revenue to the K-12 Education Fund is projected at \$81.9 million in FY 2015-16 and \$114.5 million in FY 2016-17, assuming that limited gaming at Arapahoe Park horse racetrack begins on January 1, 2016.

New gaming tax revenue from Arapahoe Park will be offset by reduced gaming tax revenue from existing casinos, resulting in reduced revenue to the Limited Gaming Fund and reduced distributions to the General Fund, other cash funds, local governments, and community colleges. These revenue impacts are summarized in Table 1.

Table 1. Changes to Revenue and Distributions under Amendment 68.		
	FY 2015-16	FY 2016-17
State Revenue	<u>\$67,235,140</u>	<u>\$85,033,743</u>
<i>K-12 Education Fund</i>	\$81,870,642	\$114,500,000
<i>Limited Gaming Fund</i>	(\$14,635,502)	(\$29,466,257)
Distributions from the Limited Gaming Fund	<u>(\$14,635,502)</u>	<u>(\$29,466,257)</u>
<i>Extended Limited Gaming Fund</i>	(\$1,347,789)	(\$2,713,558)
<i>Counties: Gilpin and Teller</i>	(\$161,735)	(\$325,627)
<i>Municipalities: Black Hawk, Cripple Creek, Central City</i>	(\$134,779)	(\$271,356)
<i>Community, Junior, and Local District Colleges</i>	(\$1,051,275)	(\$2,116,576)
<i>Counties: Gilpin and Teller</i>	(\$1,594,526)	(\$3,210,324)
<i>Municipalities: Black Hawk, Cripple Creek, Central City</i>	(\$1,328,771)	(\$2,675,270)
<i>State Historical Fund</i>	(\$3,720,560)	(\$7,490,756)
<i>Creative Industries Cash Fund*</i>	\$0	(\$372,205)
<i>Office of Film, Television, and Media Operations*</i>	\$0	(\$500,000)
<i>General Fund</i>	(\$6,643,857)	(\$12,504,145)

* Beginning FY 2016-17, revenue to the Limited Gaming Fund is projected to be insufficient to make statutory transfers to these funds pursuant to Senate Bill 13-133. See Section 12-47.1-701 (2), C.R.S.

This analysis assumes that approximately 44 percent of the AGP collected by the Arapahoe Park racetrack will be AGP foregone by existing casinos in Central City, Black Hawk, and Cripple Creek. It also assumes that AGP foregone by existing casinos would have been taxed at the highest current tax rate, 20 percent, while Amendment 68 would tax AGP at the higher rate of 34 percent.

New tax revenue estimates are based on the location of Arapahoe Park horse racetrack and estimates of population and average household income for zip codes less than three hours' drive from the new casino. These were used to estimate Arapahoe Park's potential market. Revenue loss to the Limited Gaming Fund is projected according to each zip code's driving time to existing gaming sites in Gilpin and Teller counties.

Additional revenue will be added to the K-12 Education Fund if limited gaming begins at horse racetracks in Mesa or Pueblo counties in FY 2019-20 or a subsequent year.

State spending. State spending will increase \$778,360 in FY 2015-16 and \$793,114 in FY 2016-17. The Department of Revenue will require 9.0 additional full time equivalent (FTE) employees in FY 2015-16 and 10.1 additional FTE in FY 2016-17. State spending is summarized in Table 2.

Table 2. State Spending under Amendment 68		
	FY 2015-16	FY 2016-17
Department of Revenue	\$766,360	\$781,114
<i>Personnel Salary and Benefits</i>	\$560,929	\$609,963
<i>Office Equipment</i>	\$57,327	\$9,595
<i>Law Enforcement Equipment</i>	\$28,126	\$5,919
<i>Audit Training and Software</i>	\$1,800	\$0
<i>Legal Services</i>	\$17,078	\$6,831
<i>Vehicles</i>	\$20,883	\$24,665
<i>Communication Fees</i>	\$11,250	\$15,000
<i>Insurance and Disability</i>	\$68,967	\$109,141
Office of the State Auditor		
<i>K-12 Education Fund Financial Audit</i>	\$12,000	\$12,000

The Department of Revenue will incur initial administrative costs prior to the projected opening of the Arapahoe Park casino on January 1, 2016. These initial costs include personnel, office furnishings, law enforcement equipment, and training.

Amendment 68 allows limited gaming to occur in Mesa and Pueblo counties at Class B horse racetracks that conduct racing and on-track parimutuel wagering for five consecutive years. The Department of Revenue will incur additional costs if and when limited gaming begins in these counties, not before FY 2019-20. If a horse racetrack is opened to satisfy the racing requirement, the Division of Racing in the department will incur costs to regulate horse racing; however, the division has the authority to charge fees to fund the cost of any new expense.

Table 3 shows personnel additions in the Division of Gaming attributable to Amendment 68 for the next two fiscal years.

Table 3. State Personnel Additions (FTE) under Amendment 68		
	FY 2015-16	FY 2016-17
Department of Revenue	9.0	10.1
<i>Criminal Investigator I</i>	4.4	5.0
<i>Criminal Investigator II</i>	1.3	1.1
<i>Administrative Assistant III</i>	0.8	1.0
<i>Auditor II</i>	0.9	1.0
<i>Auditor III</i>	0.6	0.5
<i>Compliance Investigator I</i>	0.5	1.0
<i>Accountant III</i>	0.5	0.5

New criminal investigators will be responsible for patrolling the casino floor, responding to patron complaints, assisting other law enforcement agencies to ensure patron safety, and monitoring the casino for compliance with limited gaming regulations. A new compliance investigator will conduct routine compliance inspections of the casino's gaming devices and related hardware and software. An administrative assistant, auditors, and accountant are necessary Division support staff.

The Department of Revenue is expected to hire new staff four months prior to the Arapahoe Park casino opening date. FY 2015-16 represents a half-year impact together with staff time accrued prior to the casino opening. FY 2016-17 represents a full-year impact. Additional personnel will be required if limited gaming begins at horse racetracks in Mesa or Pueblo counties in FY 2019-20 or a subsequent year.

Under current law, expenditures related to the administration of limited gaming and extended limited gaming are financed by fees levied against existing casinos and by transfers from the Limited Gaming and Extended Limited Gaming cash funds, respectively. Amendment 68 does not include a mechanism for financing the state's administrative expenses associated with horse racetrack limited gaming. For the purposes of this fiscal note, it is assumed that expenses will be paid from the General Fund.

The Office of the State Auditor is required to conduct an annual financial audit of the K-12 Education Fund. Because no payments into or out of the fund are expected until FY 2015-16, no expenditures are anticipated in FY 2014-15. Beginning in FY 2015-16, contracting for the audit is expected to cost \$12,000 each year.

Local Government Impact. Amendment 68 will affect local government revenue and expenditures in FY 2015-16 and subsequent years. Revenue and expenditures will increase in cities and counties where horse racetrack casinos are to be located, including Arapahoe County. Revenue and expenditures will decrease in cities and counties where existing casinos are located, including Gilpin and Teller counties and the municipalities of Black Hawk, Central City, and Cripple Creek. The precise amount of increased local expenditures are not estimated; however, revenue impacts are displayed in Table 1.

Amendment 68 allows a racetrack casino's host community to impose a one-time initial impact fee and annual impact fees that are reasonably related to the community's costs resulting from the presence of racetrack gaming. The amounts of these fees are to be established in negotiations between the horse racetrack and the host community and are therefore indeterminate. Caseloads for several local government services are expected to increase, including law enforcement, court services, traffic control, and road repair. Host and nearby communities may generate additional revenue from local sales taxes.

Under current law, a portion of taxes and fees paid by casinos are distributed to the two counties and three municipalities where limited gaming is currently authorized. Because Amendment 68 is expected to lessen revenue to existing casinos, these distributions will decrease as shown in Table 1. Current gaming cities and counties will also experience revenue reductions in the form of lower sales tax and property tax collections. Amendment 68 is not expected to affect the transfer to the Local Government Limited Gaming Impact Fund in Section 12-47.1-701 (2)(a)(IV), C.R.S.

School District Impact. Once a year, the measure requires the state treasurer to distribute the balance of the K-12 Education Fund to school districts and the CSI on a per-pupil basis. Using a K-12 funded pupil count of 856,000 in FY 2015-16, as forecast by Legislative Council Staff, new revenue is estimated at \$96 per pupil. For the 2014-15 academic year, average per-pupil funding under the School Finance Act is \$7,021.