

Colorado Legislative Council Staff Fiscal Note

## STATE and LOCAL CONDITIONAL FISCAL IMPACT

**Drafting Number:** LLS 14-0931  
**Prime Sponsor(s):** Sen. Crowder

**Date:** April 28, 2014  
**Bill Status:** Senate SVMA  
**Fiscal Analyst:** Alex Schatz (303-866-4375)

**SHORT TITLE:** LIMITED GAMING KIOWA COUNTY

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
<b>State Revenue</b>	<b><u>\$52,750</u></b>	<b><u>\$563,638</u></b>
Cash Funds	52,750	563,638
<b>State Expenditures</b>	<b><u>at least \$235,894</u></b>	<b><u>at least \$636,705</u></b>
General Fund (see State Expenditures section)		100,000
Cash Funds	203,308	431,526
Centrally Appropriated Costs**	32,586	105,179
<b>FTE Position Change</b>	2.3 FTE	8.0 FTE
<b>Appropriation Required:</b> None.***		

\* This summary shows changes from current law under the bill for each fiscal year.

\*\* These costs are not included in the bill's appropriation. See the State Expenditures section for more information.

\*\*\* Appropriations are not included in resolutions. If approved by voters, appropriations will be required in FY 2014-15 to implement the amendment and will be addressed through the annual budget process.

### Summary of Legislation

The concurrent resolution refers a constitutional amendment to voters at the 2014 general election that, if approved, will authorize limited gaming in certain parts of Kiowa County in eastern Colorado. Specifically, the concurrent resolution:

- adds unincorporated areas of Kiowa County within five miles of the municipal boundary of the Town of Eads as that boundary existed on January 1, 2014, to the list of areas where limited gaming may take place;
- authorizes voters of the unincorporated areas of Kiowa County to approve expanded limited gaming; and
- adds Kiowa County to the list of counties and municipalities receiving a constitutional distribution from the Limited Gaming Fund.

### Background

**Local authorization of limited gaming and expanded limited gaming.** Within 13 months after passage of a constitutional amendment authorizing limited gaming in an unincorporated portion of a county, the state constitution requires voters in the county to hold an election to approve limited gaming. The basic form of limited gaming that may be approved by voters must

be conducted in historic or historic-style structures, with limited hours of operation, and only includes slot machines, blackjack, or poker, with a maximum single bet of \$5. Expanded gaming may be approved by the voters of a gaming community to allow longer hours of operation, additional games, and single bets of up to \$100.

**Regulation of limited gaming.** Limited gaming is subject to regulatory oversight, including licensing, auditing, investigation, and enforcement by the Division of Gaming in the Department of Revenue (DOR). The DOR collects licensing fees from manufacturers of gaming equipment, casino operators, and casino personnel, and assess costs for background investigations of certain license applicants.

Other state agencies have statutory duties related to limited gaming. For example, in the Department of Public Safety, the Colorado Bureau of Investigation (CBI) provides investigative assistance for law enforcement related to limited gaming, and the Division of Fire Prevention and Control (DFPC) performs code reviews and inspections for limited gaming facilities where the local jurisdiction does not employ the services of a certified fire official or a qualified building official, as applicable.

**Taxation of limited gaming.** State gaming taxes are assessed on accumulated adjusted gross proceeds (AGP) from casino games. The first \$2 million in a casino's AGP is taxed at a rate of 0.25 percent. Between \$2 million and \$5 million, the gaming tax rate is 2.0 percent. Between \$5 million and \$8 million, the rate is 9.0 percent. Additional tiers increase the tax rate until the highest tax rate of 20.0 percent is applied to AGP over \$13 million.

**Distribution of limited gaming revenue.** State tax and fee revenue from limited gaming in Colorado is deposited in the Limited Gaming Fund (LGF). Operational costs of the DOR to regulate gaming are the first distribution from the LGF, including all revenue from fees. Remaining moneys in the LGF are split between revenue attributed to expanded limited gaming and all other gaming revenue. Expanded gaming revenue is distributed to community colleges, junior colleges, and local district colleges, as well as local gaming communities. A constitutional formula distributes all other gaming revenue in the LGF, with distributions to gaming communities proportioned by share of gaming revenue, apportioned between:

- the State Historical Fund (28 percent);
- gaming counties, Gilpin and Teller County under current law (12 percent);
- gaming cities, Black Hawk, Central City, Cripple Creek under current law (10 percent); and
- the state share, subject to further allocation by statute (50 percent).

**Programs funded by the state share of gaming revenue.** The state's share of limited gaming revenue is distributed according to a statutory formula, with approximately \$25 million each fiscal year allocated to various economic development programs administered by the Office of Economic Development and International Trade (OEDIT); \$5 million per year allocated to the Local Government Limited Gaming Impact Program (LGLGIP) administered by the Department of Local Affairs (DOLA); and any remainder distributed to the state General Fund. Eligibility for LGLGIP moneys is defined by statute and is limited to communities impacted by gaming under current law.

**State Revenue**

If approved by voters, starting in FY 2014-15, the concurrent resolution will generate \$52,750 in new state revenue from limited gaming fees, and \$563,638 in limited gaming taxes and fees in FY 2015-16. The concurrent resolution may also result in additional state revenue from fines and penalties.

**Assumptions.** This fiscal note is based on implementation of limited gaming in Kiowa County if approved in a statewide vote at the 2014 general election, and if expanded limited gaming is simultaneously approved by voters in Kiowa County.

The fiscal note assumes the market will support two casinos in eastern Colorado, in proximity to U.S. Highway 287. These two casinos will apply in early 2015 for appropriate licensing and other state and local approvals in Kiowa County. The casinos will be operational in FY 2015-16, for the full fiscal year. Each casino will offer approximately 250 slot devices and one table each of blackjack, poker, roulette, and craps, generating annual revenue as detailed in Table 1.

Based on Kiowa County's location, casino customers are assumed to represent new gaming revenue. Limited gaming in Kiowa County will not significantly affect other gaming activity in the state.

<b>Gaming device</b>	<b>Per device AGP</b>	<b>Number of devices</b>	<b>Total AGP for device</b>
<b>Slot machine</b>	\$24,857	250	\$6,214,250
<b>Blackjack</b>	116,021	1	116,021
<b>Poker</b>	131,415	1	131,415
<b>Roulette</b>	144,782	1	144,782
<b>Craps</b>	708,071	1	708,071
<b>Total</b>			<b>\$7,314,539</b>

**Limited gaming fees.** The DOR will collect fees, including reimbursed costs for background checks, totaling \$52,750 in FY 2014-15 and \$17,020 in FY 2015-16. Fees collected in FY 2014-15 include one-time licensing of casinos and operators. Turnover in personnel and renewal of existing personnel licenses account for most fees in FY 2015-16 and future fiscal years. Fee collections are detailed in Table 2. The concurrent resolution will not modify the existing DOR fee structure for gaming.

	Fee	FY 2014-15 (#) / fee total		FY 2015-16 (#) / fee total	
Retail Type 1 License	\$4,500	(2)	\$9,000	(0)	\$0
Operator Type 1 License	3,000	(2)	6,000	(0)	0
Key Personnel New License	250	(10)	2,500	(7)	1,750
Key Personnel Renewal	200	(0)	0	(3)	600
Support New License	100	(60)	6,000	(33)	3,300
Support Renewal License	60	(0)	0	(27)	1,620
Background Check	65	(450)	29,250	(150)	9,750
<b>Total</b>			\$52,750		\$17,020

**Limited gaming taxes.** Beginning in FY 2015-16, annual gaming taxes from Kiowa County are estimated to result in \$546,618 of state revenue (2 casinos \* \$273,309) to the Limited Gaming Fund. An estimate of gaming taxes for each casino, based on assumed AGP of \$7,314,539 is detailed in Table 3.

AGP tier	Total proceeds in tier	Tax rate	Gaming tax collections
\$0 to \$2 million	\$2,000,000	0.25 percent	\$5,000
\$2 million to \$5 million	3,000,000	2.00 percent	60,000
\$5 million to \$8 million	2,314,539	9.00 percent	\$208,309
	<b>Total</b>		<b>\$273,309</b>

**Penalties and fines.** Administrative enforcement and criminal law enforcement associated with limited gaming in Kiowa County will generate fines and penalties. The amount of fines and penalties is not estimated for this analysis.

**Other state revenue.** The development of limited gaming may result in new state revenue from ancillary business, particularly liquor licensing fees for retail liquor at casinos and state sales taxes on purchases from casinos and ancillary businesses.

**State Expenditures**

If approved by voters, implementation of the concurrent resolution increases state expenditures by at least \$235,894 and 2.3 FTE in FY 2014-15, and by at least \$636,705 and 8.0 FTE in FY 2015-16. Of these amounts, most expenditures are the result of regulatory oversight by the DOR, appropriated from the Limited Gaming Fund. In FY 2015-16, the Department of Public Safety (DPS) accounts for a General Fund expenditure of \$100,000 and 1.0 FTE. Limited gaming in Kiowa County may also increase expenditures in the Judicial Branch and other state agencies.

Table 4 provides detail regarding expenditures for the DOR and DPS if limited gaming is approved in Kiowa County, with FY 2014-15 costs prorated based on the assumptions in this analysis.

<b>Table 4. Expenditures Under SCR 14-001.</b>		
<b>Cost Components</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>
<i>Department of Public Safety</i>		<b>\$100,000</b>
Personal Services		\$100,000
FTE		1.0
<i>Department of Revenue</i>	<b>\$235,894</b>	<b>\$536,705</b>
Personal Services	\$131,243	\$416,920
FTE	2.3	7.0
Operating Expenses	15,425	12,329
Capital Outlay Costs	52,086	0
Legal Services	4,554	2,277
Centrally Appropriated Costs*	32,586	105,179
<b>TOTAL</b>	<b>\$235,894</b>	<b>\$636,705</b>

\* Centrally appropriated costs are not included in the bill's appropriation.

**Assumptions.** Assumptions noted in the State Revenue section also apply to analysis of State Expenditures. Following approval of expanded limited gaming in Kiowa County in 2014 and preparation of plans and applications by operators, workload in the DOR will increase in the last four months of FY 2014-15, starting approximately March 1, 2015, to process applications and establish a base of operations for the oversight of limited gaming in Kiowa County.

**Department of Revenue.** Primary oversight of expanded limited gaming will require the DOR to establish a satellite office in Kiowa County, with 24-hour coverage by DOR (Division of Gaming) personnel. Five of seven new positions in this satellite office will require peace officer status, with associated operating and capital costs. Legal services costs will be reappropriated to the Department of Law.

**Department of Public Safety.** Costs in the Department of Public Safety (DPS) will increase for two of its divisions. The Colorado Bureau of Investigation (CBI) will support law enforcement agencies in the investigation of criminal activity associated with limited gaming in Kiowa County. The Division of Fire Prevention and Control (DFPC) will perform building and fire inspections and other life safety functions related to limited gaming facilities. Based on current

budget allocations for these functions in gaming communities, as well as the distance from existing CBI and DFPC offices to Kiowa County, the cost to perform these functions is anticipated to require at least \$100,000 and 1.0 FTE in FY 2015-16. The fiscal note assumes that DFPC will adjust its current workload to accommodate any inspections or other work required in Kiowa County in FY 2014-15; however, additional resources may be required depending on the timing of application and construction of new gaming facilities. Any additional resources required will be obtained through the annual budget process.

**Other state agencies.** Once gaming facilities are operational, an increase of law enforcement activity in Kiowa County may result in a relatively small increase in the workload of state trial courts in the Judicial Department. Distribution of gaming tax revenue from the LGF may also impact expenditures in the Department of Higher Education (State Historical Fund) and the Department of Local Affairs.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 5. This estimate includes costs for 1,500 square feet of leased space to establish a satellite office for the Division of Gaming in the vicinity of Eads, Colorado.

<b>Table 5. Centrally Appropriated Costs Under SCR 14-001*</b>		
<b>Cost Components</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$13,472	\$42,864
Supplemental Employee Retirement Payments	9,114	32,315
Leased Space	10,000	30,000
<b>TOTAL</b>	<b>\$32,586</b>	<b>\$105,179</b>

\*More information is available at: <http://colorado.gov/fiscalnotes>

**Election expenditure impacts (for informational purposes only).** The concurrent resolution refers a measure to the voters at the November 2014 general election. This measure will be published in newspapers and an analysis of the measure will be included in the Blue Book mailed to all registered voter households prior to the election. Under current law, costs for these functions will be paid through a General Fund line item in the Long Appropriations Bill. Table 6 below identifies the anticipated costs for the 2014 Blue Book.

<b>Table 6. Cost to Produce and Distribute the 2014 Blue Book to All Registered Voter Households</b>	
Printing	\$450,000
Postage	\$450,000
Translation	\$15,000
Newspaper Publication (English & Spanish)	\$400,000
<b>Total Cost (12 issues)</b>	<b>\$1,315,000</b>
<b>Average Cost per Issue</b>	<b>\$109,583</b>

## Local Government Impact

If approved by voters, limited gaming in Kiowa County will increase local government revenue, particularly distributions to Kiowa County from the Limited Gaming Fund, as well as local tax and fee revenue associated with casinos and ancillary businesses. Local government expenditures will also increase, as necessary to provide services to casinos and ancillary businesses, including one-time costs to establish limited gaming in the county and ongoing costs to provide government services. Finally, implementation of limited gaming in Kiowa County may affect distributions from the Limited Gaming Fund to other gaming communities.

**Kiowa County - revenue.** Kiowa County will receive constitutional distributions from the Limited Gaming Fund as required by the constitution. This revenue is based on the proportion of revenue generated by gaming in Kiowa County compared with other gaming communities.

Total distributions to gaming communities have averaged approximately \$20 million annually in recent fiscal years. Based on the overall number of devices in the state, it is estimated that Kiowa County will represent less than 1 percent of overall gaming revenue in the state. Thus, distributions from the Limited Gaming Fund to Kiowa County are estimated at less than \$200,000 per year.

Gaming facilities are constitutionally authorized to obtain liquor licensing and casinos are also associated with restaurants and other ancillary business. The fiscal note assumes such ancillary business activity will generate additional revenue to Kiowa County through local fees and taxes.

**Kiowa County - election expenditures.** To authorize gaming in Kiowa County, the Kiowa County Board of County Commissioners must refer the question of authorizing gaming in unincorporated areas to local voters in 2015, and the Kiowa County Clerk and Recorder would be required to conduct at least one election. This election could include a question authorizing basic or expanded limited gaming and could be part of a coordinated or general election. Legal costs may also be required to resolve electoral boundaries, as discussed in the Technical Note section.

**Kiowa County local governments - expenditures.** Gaming in Kiowa County will result in increased workload and costs for various local government agencies. Limited gaming will increase traffic through the area and will result in increased demands on basic services, particularly law enforcement, emergency services, and fire protection. Depending on the specific development of additional dining, entertainment, and other commercial activity in Kiowa County resulting from limited gaming, the concurrent resolution will also increase expenditures for public health, development approvals, and other local government services.

**Impact on current gaming communities.** Because both DOR expenditures and distributions to gaming communities are from the Limited Gaming Fund, distributions to current gaming communities are affected by the net fiscal impact of the concurrent resolution. If DOR expenditures plus distributions to Kiowa County exceed the amount of revenue generated for the Limited Gaming Fund in Kiowa County, the amount available for distributions to other gaming communities will be reduced. As estimated in this analysis, this accounting deficit is relatively small (\$173,067 in FY 2015-16, see Table 7) compared to the overall amount available for distributions to gaming communities (\$20 million).

<b>Table 7. Net fiscal impact of SCR 14-001 on Limited Gaming Fund in FY 2015-16*</b>					
<b>Fiscal Impact</b>	<b>Components</b>				<b>Total</b>
Expenditures from LGF to Kiowa Cty.	(\$536,705) [DOR]	+	(\$200,000) [distribution]	=	(\$736,705)
Revenue to LGF from Kiowa Cty.	\$17,020 [fees]	+	\$546,618 [taxes]	=	\$563,638
<b>Net fiscal impact on the LGF:</b>					<b>(\$173,067)</b>

\* The estimate in Table 7 uses FY 2015-16 data, the first year of casino operations.

\*\* Parentheses indicate a reduction in moneys in the Limited Gaming Fund (LGF).

**Technical Note**

According to the concurrent resolution, voters of the unincorporated areas of Kiowa County may authorize expanded limited gaming within that jurisdiction. However, other constitutional provisions, applicable to all limited gaming require authorization by the majority of electors of the affected city or county. For example, the electors of gaming towns did not necessarily reside in commercial districts where gaming was constitutionally authorized. Depending on whether expanded gaming is desired in Kiowa County, local authorization may require two elections or two different sets of electors at the same election.

**Effective Date**

The constitutional amendment proposed by the resolution will take effect upon proclamation of the Governor, if approved by voters at the 2014 general election.

**State Appropriations**

If the concurrent resolution is approved by voters, the Department of Revenue will require an FY 2014-15 appropriation of \$203,308 from the Limited Gaming Fund, and 2.3 FTE, to implement the requirements of the amendment. Of this amount \$4,554 is subject to reappropriation to the Department of Law for legal services. These supplemental appropriations, if required, will be addressed in the annual budget process.

**State and Local Government Contacts**

Local Affairs  
 Municipalities  
 Human Services  
 Transportation

Revenue  
 Counties  
 Judicial Branch

Public Safety  
 Higher Education  
 Law