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An Act

SENATE BILL 22-216

BY SENATOR(S) Hansen and Zenzinger, Rankin;
also REPRESENTATIVE(S) Herod and McCluskie, Lindsay, Sullivan.

CONCERNING THE REALLOCATION OF THE LIMITED GAMING TAX REVENUES FOR FISCAL YEARS FOLLOWING A SIGNIFICANT DECREASE IN THE REVENUES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 24-80-217 as follows:

24-80-217. State historical society strategic initiatives fund - creation - repeal. (1) THE STATE HISTORICAL SOCIETY STRATEGIC INITIATIVES FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF MONEY TRANSFERRED TO THE FUND FROM THE LIMITED GAMING FUND PURSUANT TO SECTION 44-30-701 (2)(a)(V.5)(A). THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.

(2) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

ASSEMBLY, THE STATE HISTORICAL SOCIETY MAY EXPEND MONEY FROM THE FUND FOR PROGRAMS AND ACTIVITIES THAT STRENGTHEN THE SOCIETY'S FINANCIAL POSITION AND EXPAND ITS IMPACT ON THE PEOPLE OF THE STATE.

(3) (a) ON JUNE 30, 2027, THE STATE TREASURER SHALL TRANSFER ANY UNEXPENDED MONEY IN THE FUND TO THE GENERAL FUND.

(b) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2027.

SECTION 2. In Colorado Revised Statutes, 44-30-701, **amend** (2)(a)(III)(A); and **add** (2)(a)(V.5) as follows:

44-30-701. Limited gaming fund - created - repeal. (2) (a) Except as provided in subsection (2)(b) or (2)(c) of this section, at the end of the 2012-13 state fiscal year and at the end of each state fiscal year thereafter, the state treasurer shall transfer the state share as follows:

(III) (A) At the end of the ~~2017-18 state~~ 2021-22 STATE fiscal year and each state fiscal year thereafter, five million SIX HUNDRED EIGHTY-NINE THOUSAND NINE HUNDRED THIRTY-EIGHT dollars, as annually increased by an amount equal to the percentage increase in the state share as described in subsection (1)(d)(I) of this section from the previous fiscal year to the local government limited gaming impact fund created in section 44-30-1301, plus an amount equal to the projected direct and indirect costs to administer the local government limited gaming impact grant program set forth in section 44-30-1301 (2)(a) for the upcoming fiscal year; except that such transfer shall be made at the beginning of the state fiscal year, and any unspent money from such transfer reverts to the local government limited gaming impact fund.

(V.5) (A) FOR THE STATE FISCAL YEAR 2021-22, THREE MILLION DOLLARS TO THE STATE HISTORICAL SOCIETY STRATEGIC INITIATIVES FUND CREATED IN SECTION 24-80-217.

(B) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2027.

SECTION 3. In Colorado Revised Statutes, 44-30-702, **amend** (7)(a)(III)(B), (7)(a)(IV), and (7)(b); and **add** (7)(a)(V), (7)(a)(VI), (7)(a)(VII), (7)(a)(VIII), (7)(a.5), (7)(c), (7)(d), and (7)(e) as follows:

44-30-702. Revenues attributable to local revisions to gaming limits - extended limited gaming fund - identification - separate administration - distribution - legislative declaration - definitions. (7) Reduction in revenues - operation of hold-harmless provisions - continuity of funding - recovery. (a) Legislative declaration. The general assembly finds, determines, and declares that:

(III) Pursuant to that authority, it is reasonable for the general assembly to address the effects of the global pandemic and economic recession of 2020 in a way that:

(B) Equitably allocates the limited gaming tax revenues in fiscal years immediately following this severe funding decline among all recipients; ~~and~~

(IV) The allocation provisions of section 9 (7) of article XVIII of the state constitution ~~do not~~ DID NOT contemplate the unprecedented significant decline in limited gaming revenues caused by the global pandemic, and, IN 2020, the general assembly ~~desires~~ DESIRED to address the original implementing statutory formula for the allocation of gaming revenues, consistent with the state constitution in a manner that ~~modifies~~ MODIFIED the statutory annual adjustment provisions to retain the constitutional allocation, thus reflecting the proportionate allocation to the beneficiaries of limited gaming tax revenues;

(V) THIS REALLOCATION, HOWEVER, DID NOT ANTICIPATE THE RAPIDITY AND EXTENT OF THE GROWTH OF THE LIMITED GAMING REVENUES POST-PANDEMIC, WHICH WAS DUE IN PART TO THE VOTERS APPROVAL IN 2020 OF THE MODIFICATIONS TO SECTION 9 (7) OF ARTICLE XVIII OF THE STATE CONSTITUTION IN THE INITIATIVE COMMONLY REFERRED TO AS "AMENDMENT 77", WHICH PERMITTED THE GAMING TOWNS TO INCREASE OR REMOVE BET LIMITS AND APPROVE NEW CASINO GAMES WITH LOCAL VOTER APPROVAL;

(VI) THEREFORE, IT IS NECESSARY TO ADJUST THE ALLOCATION FOR THE STATE FISCAL YEAR 2021-22 AS SET FORTH IN SUBSECTION (7)(c) OF THIS SECTION TO ACHIEVE THE PURPOSES SET FORTH IN SUBSECTION (7)(a)(III) OF THIS SECTION;

(VII) FURTHER, THE GLOBAL PANDEMIC AND ECONOMIC RECESSION

OF 2020 DEMONSTRATED THAT THE EXISTING METHODOLOGY FOR DETERMINING THE LIMITED GAMING TAX REVENUES ATTRIBUTABLE TO EXTENDED LIMITED GAMING IS SUSCEPTIBLE TO DISTORTION WHEN THERE IS A SIGNIFICANT DECLINE IN THE LIMITED GAMING TAX REVENUES AND IN THE FISCAL YEARS THEREAFTER WHEN THE REVENUES ARE RESTORED;

(VIII) TO EQUITABLY ALLOCATE LIMITED GAMING TAX REVENUES IN FISCAL YEARS FOLLOWING A SIGNIFICANT DECLINE AND TO AVOID LONG-TERM ECONOMIC DAMAGE TO ANY OF THE BENEFICIARIES OF THOSE REVENUES, IT IS NECESSARY FOR THE GENERAL ASSEMBLY TO ENACT LEGISLATION THAT WILL FACILITATE THE OPERATION OF SECTION 9 (7) OF ARTICLE XVIII OF THE STATE CONSTITUTION.

(a.5) AS USED IN THIS SUBSECTION (7), UNLESS THE CONTEXT OTHERWISE REQUIRES:

(I) "EXTENDED LIMITED GAMING FUND RECIPIENTS" MEANS THE RECIPIENTS OF LIMITED GAMING TAX REVENUES ATTRIBUTABLE TO EXTENDED LIMITED GAMING UNDER SECTION 9 (7) OF ARTICLE XVIII OF THE STATE CONSTITUTION.

(II) "FISCAL YEAR WITH A SIGNIFICANT DECREASE IN TOTAL LIMITED GAMING TAX REVENUE" MEANS:

(A) A FISCAL YEAR IN WHICH THE TOTAL LIMITED GAMING TAX REVENUE COLLECTIONS HAVE DECLINED BY FIVE PERCENT OR MORE FROM THE IMMEDIATELY PRECEDING FISCAL YEAR; OR

(B) IF SUBSECTION (7)(a.5)(II)(A) OF THIS SECTION DOES NOT APPLY, THE SECOND OF TWO CONSECUTIVE FISCAL YEARS WITH A CUMULATIVE DECLINE OF TOTAL LIMITED GAMING TAX REVENUE COLLECTIONS THAT IS SIX PERCENT OR MORE FROM THE FISCAL YEAR IMMEDIATELY PRECEDING THE FIRST OF THE TWO CONSECUTIVE FISCAL YEARS.

(III) "LIMITED GAMING FUND RECIPIENTS" MEANS THE RECIPIENTS LISTED IN SECTION 9 (5)(b)(II) OF ARTICLE XVIII OF THE STATE CONSTITUTION.

(IV) "RECENT TOTAL LIMITED GAMING TAX REVENUES PEAK" MEANS TOTAL LIMITED GAMING TAX REVENUE COLLECTIONS FOR THE FISCAL YEAR

THAT IS:

(A) PRIOR TO THE FISCAL YEAR WITH A SIGNIFICANT DECREASE IN TOTAL LIMITED GAMING TAX REVENUES; AND

(B) THE LAST FISCAL YEAR IN WHICH TOTAL LIMITED GAMING TAX REVENUE COLLECTIONS INCREASED FROM THE IMMEDIATELY PRECEDING FISCAL YEAR.

~~(b) (I) Notwithstanding any provision of subsection (3)(b) or (4)(d) of this section to the contrary, beginning in FOR state fiscal year 2020-21, and continuing through each subsequent fiscal year until the fiscal year immediately following the fiscal year in which total limited gaming tax revenue collections have again equaled or exceeded the amount of total limited gaming tax revenues collected in state fiscal year 2018-19, any annual~~ THE growth or decline in total net gaming tax distributions shall be IS allocated between the limited gaming fund recipients listed in section 9 (5)(b)(H) of article XVIII of the state constitution and the recipients of limited gaming tax revenues attributable to extended limited gaming under section 9 (7) of article XVIII of the state constitution FUND RECIPIENTS based on the relative percentages in which each group of recipients shared in the decrease in total net gaming tax distributions from state fiscal year 2018-19 to state fiscal year 2019-20. The commission may make any adjustments necessary to ensure that the final distributions to all recipients comply with constitutional requirements while achieving the intent of this subsection (7). So long as this subsection (7) remains in effect, the annual adjustments required under subsections (3)(b) and (4)(d) of this section are temporarily superseded by the specific allocations to implement the constitutional annual adjustment made pursuant to this subsection (7).

(II) ~~As used in this subsection (7)(b), "limited gaming tax revenues attributable to extended limited gaming" means that portion of total limited gaming tax revenues allocated pursuant to subsection (7)(b)(I) of this section to recipients of revenues derived from extended limited gaming under section 9 (7) of article XVIII of the state constitution.~~

(c) (I) FOR PURPOSES OF DETERMINING THE LIMITED GAMING TAX REVENUES ATTRIBUTABLE TO EXTENDED LIMITED GAMING, THE ADJUSTED BASE FOR STATE FISCAL YEAR 2021-22 IS EQUAL TO ONE HUNDRED THIRTEEN MILLION NINE HUNDRED SEVENTY-THREE THOUSAND TWELVE DOLLARS,

WHICH IS EQUAL TO THE ADJUSTED BASE FOR STATE FISCAL YEAR 2018-19 INCREASED BY TWO AND ONE-HALF PERCENT, WITH THAT SUM INCREASED BY THREE PERCENT, WITH THAT SUM INCREASED BY THREE PERCENT. ALL LIMITED GAMING TAX REVENUES FOR STATE FISCAL YEAR 2021-22 IN EXCESS OF THIS ADJUSTED BASE ARE LIMITED GAMING TAX REVENUES ATTRIBUTABLE TO EXTENDED LIMITED GAMING FOR STATE FISCAL YEAR 2021-22.

(II) THE ADJUSTED BASE THAT IS ESTABLISHED IN SUBSECTION (7)(c)(I) OF THIS SECTION CONSTITUTES THE ADJUSTED BASE THAT IS USED IN THE CALCULATION SET FORTH IN SUBSECTION (4)(d) OF THIS SECTION FOR PURPOSES OF DETERMINING THE LIMITED GAMING TAX REVENUES ATTRIBUTABLE TO EXTENDED LIMITED GAMING FOR STATE FISCAL YEAR 2022-23, AND FUTURE CALCULATIONS UNDER SUBSECTION (4)(d) OF THIS SECTION ARE DERIVED FROM THIS INITIAL AMOUNT AS SUBSEQUENTLY ADJUSTED.

(d) IF THERE IS A FISCAL YEAR WITH A SIGNIFICANT DECREASE IN TOTAL LIMITED GAMING TAX REVENUES, THEN:

(I) BEGINNING WITH THE NEXT FISCAL YEAR AND CONTINUING FOR EACH CONSECUTIVE FISCAL YEAR THEREAFTER WITH TOTAL LIMITED GAMING TAX REVENUES THAT ARE LESS THAN OR EQUAL TO THE RECENT TOTAL LIMITED GAMING TAX REVENUES PEAK, THE ANNUAL GROWTH OR DECLINE IN TOTAL GAMING TAX DISTRIBUTIONS IS ALLOCATED BETWEEN THE LIMITED GAMING FUND RECIPIENTS AND THE EXTENDED LIMITED GAMING FUND RECIPIENTS BASED ON THE RELATIVE PERCENTAGES IN WHICH EACH GROUP OF RECIPIENTS SHARED IN THE DECREASE IN TOTAL NET GAMING TAX DISTRIBUTIONS FROM THE FISCAL YEAR WITH THE RECENT TOTAL LIMITED GAMING TAX REVENUES PEAK TO THE FISCAL YEAR WITH A SIGNIFICANT DECREASE IN TOTAL LIMITED GAMING REVENUE.

(II) (A) FOR PURPOSES OF DETERMINING THE LIMITED GAMING TAX REVENUES ATTRIBUTABLE TO EXTENDED LIMITED GAMING, FOR THE NEXT FISCAL YEAR IN WHICH TOTAL LIMITED GAMING REVENUES EXCEED THE RECENT TOTAL LIMITED GAMING TAX REVENUES PEAK, THE ADJUSTED BASE FOR THE FISCAL YEAR IS EQUAL TO THE RECENT TOTAL LIMITED GAMING TAX REVENUES PEAK INCREASED BY THREE PERCENT OR THE ACTUAL PERCENTAGE INCREASE OF TOTAL LIMITED GAMING REVENUES FOR THE FISCAL YEAR ABOVE THE RECENT TOTAL LIMITED GAMING REVENUES PEAK, WHICHEVER PERCENTAGE IS LESS. FOR THIS NEXT FISCAL YEAR, ALL LIMITED

GAMING TAX REVENUES IN EXCESS OF THIS ADJUSTED BASE ARE LIMITED GAMING TAX REVENUES ATTRIBUTABLE TO EXTENDED LIMITED GAMING FOR THE FISCAL YEAR.

(B) THE ADJUSTED BASE THAT IS ESTABLISHED IN SUBSECTION (7)(d)(II)(A) OF THIS SECTION CONSTITUTES THE ADJUSTED BASE THAT IS USED IN THE CALCULATION SET FORTH IN SUBSECTION (4)(d) OF THIS SECTION FOR PURPOSES OF DETERMINING THE LIMITED GAMING TAX REVENUES ATTRIBUTABLE TO EXTENDED LIMITED GAMING FOR THE FISCAL YEAR IMMEDIATELY FOLLOWING THE FISCAL YEAR SET FORTH IN SUBSECTION (7)(d)(II)(A) OF THIS SECTION, AND FUTURE CALCULATIONS UNDER SUBSECTION (4)(d) OF THIS SECTION ARE DERIVED FROM THIS INITIAL AMOUNT AS SUBSEQUENTLY ADJUSTED.

(e) THE COMMISSION MAY MAKE ANY ADJUSTMENTS TO THE ALLOCATIONS SET FORTH IN THIS SUBSECTION (7) NECESSARY TO ENSURE THAT THE FINAL DISTRIBUTIONS TO ALL RECIPIENTS COMPLY WITH CONSTITUTIONAL REQUIREMENTS WHILE ACHIEVING THE INTENT OF THIS SUBSECTION (7). SO LONG AS THIS SUBSECTION (7) REMAINS IN EFFECT, THE ANNUAL ADJUSTMENTS REQUIRED UNDER SUBSECTIONS (3)(b) AND (4)(d) OF THIS SECTION ARE TEMPORARILY SUPERSEDED BY THE SPECIFIC ALLOCATIONS TO IMPLEMENT THE CONSTITUTIONAL ANNUAL ADJUSTMENT MADE PURSUANT TO THIS SUBSECTION (7).

SECTION 4. In Colorado Revised Statutes, **add** 44-30-702.5 as follows:

44-30-702.5. Supplemental payments - definition - working group - analysis of revenue attribution - report - repeal. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "LOCAL GOVERNMENT LIMITED GAMING RECIPIENT" MEANS THE GOVERNING BODY OF GILPIN COUNTY, TELLER COUNTY, OR THE CITIES OF CENTRAL, BLACK HAWK, OR CRIPPLE CREEK.

(b) "TOTAL LIMITED GAMING REVENUES" MEANS THE TOTAL AMOUNT OF REVENUE DISTRIBUTED TO A LOCAL GOVERNMENT LIMITED GAMING RECIPIENT FROM THE LIMITED GAMING FUND CREATED BY SECTION 9 (5)(a) OF ARTICLE XVIII OF THE STATE CONSTITUTION AND THE EXTENDED LIMITED GAMING FUND CREATED IN SECTION 44-30-702 (1)(a), AND THE TERM

INCLUDES AMOUNTS DISTRIBUTED TO A LOCAL GOVERNMENT LIMITED GAMING RECIPIENT FROM THE STATE HISTORICAL FUND IN ACCORDANCE WITH SECTION 9 (5)(b)(II) OF ARTICLE XVIII OF THE STATE CONSTITUTION.

(c) "WORKING GROUP" MEANS THE WORKING GROUP CREATED IN SUBSECTION (4)(a) OF THIS SECTION.

(2) SUBJECT TO THE PROVISIONS IN SUBSECTION (3) OF THIS SECTION, AT THE END OF THE 2021-22 STATE FISCAL YEAR, THE DIVISION SHALL DISTRIBUTE TO A LOCAL GOVERNMENT LIMITED GAMING RECIPIENT AN AMOUNT EQUAL TO THE TOTAL LIMITED GAMING REVENUES THAT THE RECIPIENT WOULD HAVE RECEIVED IF SENATE BILL 22-216 HAD NOT BEEN ENACTED INTO LAW MINUS THE AMOUNT THE RECIPIENT IS ENTITLED TO RECEIVE BASED ON THE PASSAGE OF SENATE BILL 22-216.

(3) THE DIVISION SHALL MAKE THE DISTRIBUTIONS FROM MONEY APPROPRIATED BY THE GENERAL ASSEMBLY FROM THE GENERAL FUND, AND THE TOTAL DISTRIBUTIONS SHALL NOT EXCEED ONE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS. IF THE TOTAL AMOUNT TO BE DISTRIBUTED BASED ON THE CALCULATION SET FORTH IN SUBSECTION (2) OF THIS SECTION WOULD OTHERWISE EXCEED THIS AMOUNT, THEN THE DIVISION SHALL PROPORTIONALLY REDUCE THE DISTRIBUTIONS TO THE ELIGIBLE LOCAL GOVERNMENT LIMITED GAMING RECIPIENTS BASED ON THE RELATIVE DISTRIBUTIONS.

(4)(a) THE DIRECTOR SHALL CONVENE A WORKING GROUP TO STUDY THE ATTRIBUTION OF LIMITED GAMING TAX REVENUE BETWEEN THE LIMITED GAMING FUND AND THE EXTENDED LIMITED GAMING FUND BY:

(I) DETERMINING IF THERE IS DATA AVAILABLE TO IDENTIFY THE LIMITED GAMING TAX REVENUES ATTRIBUTABLE TO THE OPERATION OF SECTION 9 (7) OF ARTICLE XVIII OF THE STATE CONSTITUTION; AND

(II) IF SUCH DATA IS AVAILABLE, COLLECTING THE DATA AND COMPARING IT WITH THE CURRENT ALLOCATION REQUIRED BY LAW.

(b) THE WORKING GROUP CONSISTS OF THE DIRECTOR, OR THE DIRECTOR'S DESIGNEE; A REPRESENTATIVE OF THE OFFICE OF STATE PLANNING AND BUDGETING; A REPRESENTATIVE OF THE STATE HISTORICAL SOCIETY; A REPRESENTATIVE FROM EACH OF THE LOCAL GOVERNMENT

LIMITED GAMING RECIPIENTS; AND ONE OR MORE REPRESENTATIVES APPOINTED BY THE DIRECTOR TO REPRESENT THE STATE PUBLIC COMMUNITY COLLEGES, JUNIOR COLLEGES, AND LOCAL DISTRICT COLLEGES.

(c) THE WORKING GROUP SHALL PREPARE A WRITTEN REPORT OF ITS FINDINGS AND SUBMIT THE REPORT TO THE JOINT BUDGET COMMITTEE NO LATER THAN NOVEMBER 1, 2022. INDIVIDUAL MEMBERS OF THE WORKING GROUP MAY PROVIDE COMMENTS TO BE INCLUDED WITH THE SUBMISSION OF THE REPORT.

(5) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2023.

SECTION 5. Appropriation. (1) For the 2022-23 state fiscal year, \$1,500,000 is appropriated to the department of higher education for use by history Colorado. This appropriation is from the state historical society strategic initiatives fund created in section 24-80-217, C.R.S. To implement this act, history Colorado may use this appropriation for programs and activities that strengthen history Colorado's financial position and expand its impact on the people of the state.

(2) For the 2022-23 state fiscal year, \$800,000 is appropriated to the department of higher education for use by history Colorado. This appropriation is from the museum and preservation operations account of the state historical fund created in section 44-30-1201 (5)(c)(I)(B), C.R.S. To implement this act, history Colorado may use this appropriation as follows:

- (a) \$150,000 for central administration;
- (b) \$160,000 for collections and curatorial services;
- (c) \$70,000 for the history Colorado center;
- (d) \$345,000 for statewide programming; and
- (e) \$75,000 for the office of archaeology and historic preservation.

(3) For the 2022-23 state fiscal year, \$1,250,000 is appropriated to the department of revenue for use by the division of gaming. This appropriation is from the general fund. To implement this act, the division

may use this appropriation for distributions to local government limited gaming recipients pursuant to section 44-30-702.5 (2), C.R.S.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Steve Fenberg
PRESIDENT OF
THE SENATE

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO