



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated April 21, 2022)

Drafting Number: LLS 22-0960 Date: May 3, 2022
Prime Sponsors: Sen. Hansen; Zenzinger Bill Status: Senate Appropriations
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Bill Topic: REALLOCATION OF LIMITED GAMING REVENUES

- Summary of Fiscal Impact:
State Revenue (unchecked)
State Expenditure (checked)
State Transfer (checked)
TABOR Refund (checked)
Local Government (checked)
Statutory Public Entity (unchecked)

The bill modifies the allocation of gaming tax revenues between the Limited Gaming and Extended Gaming Funds. The bill increases state expenditures, includes a state transfer, and impacts local government revenue.

Appropriation Summary: For FY 2022-23, the bill requires total appropriations of \$3.6 million to the Department of Higher Education and the Department of Revenue.

Fiscal Note Status: The fiscal note reflects the reengrossed bill. The bill is recommended by the Joint Budget Committee.

Table 1
State Fiscal Impacts Under SB 22-216

Table with 4 columns: Category, Current Year FY 2021-22, Budget Year FY 2022-23, Out Year FY 2023-24. Rows include Revenue, Expenditures (Cash Funds, General Fund, Total Expenditures), Transfers (General Fund, Cash Funds, Net Transfer), and Other Budget Impacts (TABOR Refund, General Fund Reserve).

## **Summary of Legislation**

The bill reallocates gaming tax revenues between limited and extended gaming following House Bill 20-1400 that fixed allocations in response to the steep decrease in gaming tax revenue following the onset of the pandemic. The bill resets the base for limited gaming revenue to \$113,973,012 for FY 2021-22, equal to limited gaming revenue in FY 2018-19 adjusted upwards by about 3 percent each subsequent year. Further, the bill establishes a mechanism to temporarily modify the allocation between limited and extended gaming tax revenue following future years where there is a significant decrease in gaming tax revenues.

The bill also resets the base portion of the state share of limited gaming tax revenues deposited in the Local Government Limited Gaming Impact Fund, after transfers were suspended for two years under House Bill 20-1399. For FY 2021-22, the base is reset at \$5,689,938.

**Working group.** The bill creates a working group comprised of the Division of Gaming, the Governor's Office of Planning and Budgeting, the State Historical Society, the Community College System, and representatives from each gaming community to ascertain the availability of data and the potential to analyze the allocation of revenues attributed to limited and extended gaming. The working group will prepare a written report of its findings for the Joint Budget Committee by November 1, 2022.

**Transfers and appropriations.** The bill creates the State Historical Society Strategic Initiatives Fund and transfers \$3.0 million into the fund from the General Fund. Money from the fund may be spent by the State Historical Society for programs and activities that strengthen its financial position and its impact on the people of the state. The bill includes an appropriation of \$2.3 million to the Department of Higher Education for use by History Colorado, and an appropriation of \$1.25 million to the Department of Revenue to be allocated to the gaming cities and counties depending on any shortfall in distributions to the communities as a result of the bill.

## **Background**

**Distribution of gaming revenues.** Gaming revenues are distributed based on a formula in both the Colorado Constitution and state law. The allocation of limited gaming revenue, which was first approved by voters in 1990, is distributed as follows:

- 50 percent to the General Fund, which is further distributed to several programs specified in statute;
- 10 percent to gaming cities;
- 12 percent to gaming counties; and
- 28 percent to the State Historical Fund, of which 20 percent is allocated to gaming cities and 80 percent is allocated to History Colorado.

Amendments 50 and 77, approved by voters in 2008 and 2020 respectively, extended allowable hours, bets, and games in Colorado casinos. Revenue generated from extended gaming is exempt from TABOR. Following the adoption of Amendment 50, legislation clarified in statute how the division of funds between original limited gaming and extended gaming would be calculated. Based on

statute, funds distributed to limited gaming recipients are generally capped at 3.0 percent growth each year. Revenue from extended gaming is distributed as follows:

- 78 percent to community colleges; and
- 22 percent to gaming cities and counties.

Table 2 shows the forecasted allocation of gaming tax revenues under current law based on the March 2022 Legislative Council Staff Forecast.

**Table 2**  
**Gaming Tax Revenue**

	<b>Estimate FY 2021-22</b>	<b>Estimate FY 2022-23</b>	<b>Estimate FY 2023-24</b>
Limited Gaming (Subject to TABOR)	\$138.3 million	\$140.0 million	\$141.8 million
Extended Gaming (TABOR Exempt)	\$22.6 million	\$22.9 million	\$23.2 million
<b>Total</b>	<b>\$161.0 million</b>	<b>\$162.9 million</b>	<b>\$165.0 million</b>

*Source: Legislative Council Staff March 2022 Forecast.*

**House Bill 20-1400.** Following the steep decline in gaming tax revenues in 2020 due to casino closures and the pandemic-induced recession, House Bill 20-1400 was enacted. The bill temporarily modified how gaming revenue was allocated between limited gaming recipients and extended gaming recipients beginning in FY 2020-21 and continuing until gaming revenues returned to FY 2018-19 levels, a level that is forecasted to be exceeded in the current fiscal year. The bill fixed the allocation based on the relative percentages in which each group of recipients shared in the decrease in distributions that occurred between FY 2018-19 and FY 2019-20.

**House Bill 20-1399.** The bill suspended the annual transfers from the Limited Gaming Fund in FY 2019-20 and FY 2020-21 to the following funds:

- Colorado Travel and Tourism Promotion Fund;
- Advanced Industries Acceleration Cash Fund;
- Local Government Limited Gaming Impact Fund;
- Innovative Higher Education Research Fund;
- Creative Industries Cash Fund; and
- Colorado Office of Film, Television, and Media Operational Account Cash Fund.

**State Historical Fund.** The State Historical Fund provides grants for preservation projects across the state including planning, preservation, restoration, rehabilitation, archaeological assessments and research, designation of historic places, and training and education programs. Since inception in 1991, the fund receives a share of limited gaming revenue pursuant to the state constitution and detailed above.

**History Colorado.** History Colorado is a 501(c)(3) charitable organization and agency of the State of Colorado in the Department of Higher Education.

**State Transfers**

The bill includes a one-time transfer of \$3.0 million from the General Fund to the State Historical Society Strategic Initiatives Fund in FY 2021-22. In addition, by changing the distribution of gaming revenue, it will reduce funding transferred to the General Fund by \$11.2 million in FY 2021-22, and increasing amounts in future years. As described in the State Expenditure section below, this transfer to the General Fund is used for discretionary economic development programs.

**State Expenditures**

The bill increases state expenditures in History Colorado in the Department of Higher Education and the Department of Revenue, and modifies the allocation of gaming revenues, as discussed below. Expenditures are shown in Table 3 and detailed below.

**Table 3  
 Expenditures Under SB 22-216**

	FY 2022-23	FY 2023-24
<b>Department of Higher Education</b>		
History Colorado		
Financial programs and activities	\$1,500,000	-
Central administration	\$150,000	-
Collections and curatorial services	\$160,000	-
History Colorado Center	\$70,000	-
Statewide programming	\$345,000	-
Office of Archaeology and Historic Preservation	\$75,000	-
<b>Subtotal DHE</b>	<b>\$2,300,000</b>	<b>-</b>
<b>Department of Revenue</b>		
Allocations to local governments	\$1,250,000	-
<b>Subtotal DOR</b>	<b>\$1,250,000</b>	<b>-</b>
<b>Total</b>	<b>\$3,550,000</b>	<b>-</b>

**History Colorado.** The bill increases state expenditures in History Colorado in the Department of Higher Education by \$2.3 million in FY 2022-23 from the State Historical Society Strategic Initiatives Fund and the State Historical Fund.

**Local government allocations.** The bill increases expenditures by \$1.25 million for the Division of Gaming in the Department of Revenue to distribute to local governments that are recipients of limited gaming revenues, based on potential losses under the bill compared to current law. At the end of FY 2021-22, the Division of Gaming will determine what each local government would have received absent the bill, and then backfill the amount lost under the bill, up to \$1.25 million. The amount

distributed depends on the share of gaming proceeds and taxes generated in each gaming city and county.

**Gaming revenue allocations.** The bill modifies how gaming revenue is allocated between limited gaming recipients and extended gaming recipients, beginning in FY 2021-22. As a result, \$24.4 million will shift from limited gaming recipients to extended gaming recipients, but total gaming revenue collected and expended will not change as a result of the bill. Estimated changes in distributions from current law are shown below in Table 4 and are based on the Legislative Council Staff March 2022 forecast.

**Table 4**  
**Changes to Gaming Distribution Under SB 22-216**

	FY 2021-22	FY 2022-23	FY 2023-24
<b>Distribution Type</b>			
<u>Limited Gaming</u>	<u>(\$24.4 million)</u>	<u>(\$24.9 million)</u>	<u>(\$25.3 million)</u>
State Historical Fund	(\$6.2 million)	(\$6.4 million)	(\$6.5 million)
Gaming Counties and Cities	(\$4.9 million)	(\$5.0million)	(\$5.1 million)
General Fund & Econ.Devt. Programs <sup>1</sup>	(\$11.2 million)	(\$11.4 million)	(\$11.6 million)
Administrative Expenses	(\$2.1 million)	(\$2.1 million)	(\$2.1 million)
<u>Extended Gaming</u>	<u>\$24.4 million</u>	<u>\$24.9 million</u>	<u>\$25.3 million</u>
Community Colleges	\$17.4 million	\$17.8 million	\$18.1 million
Gaming Counties and Cities	\$4.9 million	\$5.0 million	\$5.1 million
Administrative Expenses	\$2.1 million	\$2.1 million	\$2.1 million
<b>Net Change in Gaming Distributions</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<sup>1</sup>Includes the Colorado Travel and Tourism Promotion Fund, Advanced Industries Acceleration Cash Fund, Local Government Limited Gaming Impact Fund, Innovative Higher Education Research Fund, Creative Industries Fund, Colorado Office of Film, Television, and Media Operational Account Fund.  
 Totals may not add due to rounding.

**Other agencies.** The bill creates a working group organized by the Division of Gaming that includes the Governor’s Office of Planning and Budgeting, the State Historical Society, and the Community College System. The working group is required to submit a report of its findings to the Joint Budget Committee in the Fall of 2022. The fiscal note assumes that workload impacts associated with implementing this working group can be accommodated with existing appropriations.

**Other Budget Impacts**

**TABOR refunds.** The bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by \$24.4 million for FY 2021-22, \$24.6 million for FY 2022-23, and \$24.9 million for FY 2023-24. This estimate assumes the March 2022 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2023-24. Because TABOR refunds are paid from the General Fund, decreased cash fund revenue subject to TABOR will increase the amount of General Fund available to spend or save.

**General Fund reserve.** Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amount in Table 1, which will decrease the amount of General Fund available for other purposes.

## Local Government

Changing the distribution of gaming revenues impacts the allocation to the gaming communities, as shown in Table 4 beginning in FY 2021-22. The net impact to gaming communities will be determined by distributions made in each community from the State Historical Fund, the share of gaming proceeds generated in each community for the limited gaming distribution, and by the share of tax revenue generated in each community for the extended gaming distribution. If any community loses revenue as a result of the bill compared with what they would have generated under current law, the state will backfill the loss to meet revenue that would have been realized absent the bill, a one-time allocation up to \$1.25 million total among all communities in FY 2022-23.

## Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

## State Appropriations

In FY 2022-23, the bill includes the following appropriations to the Department of Higher Education for use by History Colorado:

- \$1.5 million from the State Historical Society Strategic Initiatives Fund; and
- \$800,000 from the State Historical Fund.

In FY 2022-23, the bill includes a General Fund appropriation of \$1.25 million to the Department of Revenue.

## State and Local Government Contacts

Counties	Higher Education	History Colorado
Information Technology	Local Affairs	Municipalities
OEDIT	Personnel	Revenue
Treasury		