



Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number: LLS 22-0727 Date: February 22, 2022
Prime Sponsors: Sen. Coram; Fields Bill Status: Senate Finance
Fiscal Analyst: David Hansen | 303-866-2633
David.Hansen@state.co.us

Bill Topic: GROSS RECEIPTS OF OUT-OF-STATE PARI-MUTUEL BETS

- Summary of Fiscal Impact:
[X] State Revenue [X] TABOR Refund
[X] State Expenditure [] Local Government
[] State Transfer [] Statutory Public Entity

The bill changes the definition of gross receipts from pari-mutuel wagering. The bill reduces state revenue and increases expenditures on an ongoing basis.

Appropriation Summary: For FY 2022-23, the bill requires an appropriation of \$52,744 to the Department of Revenue.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under SB 22-117

Table with 5 columns: Category, Fund, Current Year FY 2021-22, Budget Year FY 2022-23, Out Year FY 2023-24. Rows include Revenue (General Fund, Supplemental Purse & Breeders Award Fund, Racing Cash Fund, Total Revenue), Expenditures (Racing Cash Fund, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts (TABOR Refund).

Summary of Legislation

The bill adds a definition of gross receipts to statute that stipulates when money is received by a licensee from an out-of-state simulcast facility, gross receipts is the amount received after the out-of-state facility has deducted costs, signal fees, and taxes that it pays to its regulatory and taxing authorities.

Background

Colorado's tax on pari-mutuel wagering was enacted in 1947. The state's pari-mutuel tax is levied on the gross receipts, or amount of wagers placed, on live and simulcast horse and greyhound racing events. Arapahoe Park is Colorado's only live horse racetrack facility. Under current law, taxes for live events are levied on the gross receipts of wagers placed, with wagers placed in-state and wagers placed out-of-state at authorized simulcast facilities, being a part of a pari-mutuel pool. The 0.75 percent tax is imposed on gross receipts prior to the removal of the track or facility takeout and prior to the distribution of winnings. Revenue from the 0.75 percent tax is deposited in the General Fund.

In addition to state General Fund revenue from pari-mutuel taxes, the racetrack facility takeout, purses, and Supplemental Purse and Breeders Award Fund are currently determined by gross receipts from pari-mutuel wagering. Revenue to the Supplemental Purse and Breeders Award Fund is subject to TABOR and is generated from a 0.5 percent tax on win-place-show wagers, a 1.5 percent tax on all other wagers, and unclaimed pari-mutuel tickets. Revenue in the fund is distributed to breeders' associations and owners and breeders of Colorado-bred horses.

The Division of Racing's costs for administering racing in Colorado are funded through the Racing Cash Fund. Revenues for the Racing Cash Fund are comprised of business license and permit fees, source market fees, and professional and occupational license fees. Source market fees are 5.0 percent of Colorado placed wagers through out-of-state advanced deposit wager (ADW) facilities. In FY 2020-21, Racing Cash Fund revenue totaled more than \$1.6 million.

State Revenue

This bill is expected to reduce state revenue to the General Fund and cash funds by a net total of \$12,750 in FY 2021-22, \$71,550 in FY 2022-23, and \$98,400 in FY 2023-24, with similar impacts in future years.

General Fund revenue reduction. The analysis assumes that the bill reduces the pari-mutuel pool that is comprised of the wagers placed on live race events in Colorado. The reduced pari-mutuel pool under the bill will reduce revenue to the General Fund by \$5,350 in FY 2021-22 (one-month),¹ \$38,500 in FY 2022-23, and \$40,400 in FY 2023-24. Pari-mutuel tax revenue is subject to TABOR.

¹ Assumes live racing events in June 2022 in proportion to a six-month season.

From 2019 to 2021, between \$4.7 million and \$6.5 million in wagers were placed on live racing events in Colorado. In 2019, wagers placed at out-of-state simulcast facilities on live events comprised about 75 percent of the gross receipts of wagers. In 2021, pandemic conditions resulted in out-of-state wagers comprising about 91 percent of gross receipts. Assuming the share of in-state placed wagers increases as pandemic conditions normalize and the December 2021 Legislative Council Staff forecast of pari-mutuel tax revenue, wagers placed at out-of-state simulcast facilities will range from an estimated \$5.1 million in FY 2022-23 to \$5.4 million in FY 2023-24. The analysis assumes the bill would result in taxes applied only on in-state wagers in the pari-mutuel pool. If money received by a licensee from an out-of-state simulcast facility after taxes, signal fees, and costs is greater than \$0, it will reduce the decrease in state revenue as estimated in this fiscal note.

Supplemental Purse and Breeders Award Fund revenue reduction. From 2019 to 2021, win-place-show wagers comprised between 41 percent and 52 percent of all in-state and out-of-state wagers placed on live race events. Of this amount, in-state win-place-show wagers comprised about 29 percent of all win-place-show wagers in 2019, but fell to about 13 percent in 2021 during the pandemic. Assuming the share of in-state win-place-show wagers increases as pandemic conditions normalize, that win-place-show wagers comprise about 46.6 percent of all wagers through the analysis period, and that revenue to the Supplemental Purse and Breeders Award Fund is determined based on in-state win-place-show wagers only, the bill will reduce revenue to the cash fund by \$7,400 in FY 2021-22 (one-month), \$53,300 in FY 2022-23, and \$56,000 in FY 2023-24. Revenue to the cash fund is subject to TABOR.

Fee impact on out-of-state simulcast facilities licensees. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. The Division of Racing will require minor business license applications to audit and track taxes, fees, and costs at out-of-state simulcast facilities receiving wagers on live race events in Colorado. The fiscal note anticipates 150 new licenses, and assumes the current \$135 fee for a new minor business license. Fee revenue to the Racing Cash Fund is shown in Table 2. Minor business license fees are renewed every three years. The cost of a renewal is currently \$65. License fees are subject to TABOR.

**Table 2
Fee Impact on Out-Of-State Simulcast Facilities**

Fiscal Year	Type of Fee	Fee	Number Impacted	Total Fee Impact
FY 2022-23	Minor Business License	\$135	150	\$20,250
FY 2022-23	Support Occupational License	\$75	150	\$11,250
	Total			\$31,500

State Expenditures

The bill increases state expenditures in the Department of Revenue by \$61,870 in FY 2022-23 and \$55,670 in FY 2023-24 from the Racing Cash Fund. Expenditures are shown in Table 3 and detailed below.

**Table 3
Expenditures Under SB 22-117**

	FY 2022-23	FY 2023-24
Department of Revenue		
Personal Services	\$45,869	\$45,869
Operating Expenses	\$675	\$675
Capital Outlay Costs	\$6,200	-
Centrally Appropriated Costs ¹	\$9,126	\$9,126
Total Cost	\$61,870	\$55,670
Total FTE	0.5 FTE	0.5 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Revenue. The Division of Racing will require an estimated 0.4 FTE for an Auditor IV position and 0.1 FTE for an Administrator III position. The auditor will assist in auditing the wagers placed at out-of-state simulcast facilities for Colorado's live racing events to ensure compliance with the state's statutes and rules when determining gross receipts in the pari-mutuel pool and associated taxes. The administrator will process additional minor business license applications, renewals, and support licenses.

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. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Other Budget Impacts

TABOR refunds. The bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by \$12,750 for FY 2021-22, \$60,300 for FY 2022-23 and \$96,400 for FY 2023-24. This estimate assumes the December 2021 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 General Fund revenue will lower the TABOR refund obligation, but result in no net change to the amount of General Fund otherwise available to spend or save.

Effective Date

The bill takes effect on June 1, 2022.

State Appropriations

For FY 2022-23, the bill requires an appropriation from the Racing Cash Fund to the Department of Revenue of \$52,744 and 0.5 FTE.

State and Local Government Contacts

Counties	Judicial	Law
Municipalities	Revenue	