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Final Fiscal Note

Drafting Number: LLS 22-0727 Date: August 31, 2022
Prime Sponsors: Sen. Coram; Fields Bill Status: Postponed Indefinitely
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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 would have changed the definition of gross receipts from pari-mutuel wagering. The bill would have increased state revenue and increased expenditures on an ongoing basis.

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

Fiscal Note Status: The fiscal note reflects the introduced bill, and was updated to reflect additional information. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under SB 22-117

Table with 4 columns: Category, Sub-category, Budget Year FY 2022-23, and Out Year FY 2023-24. Rows include Revenue (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. Based on current practice, the 0.75 percent pari-mutuel tax is imposed on the gross receipts of wagers placed in-state on live events 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 increase state revenue to the Racing Cash Fund by \$31,500 in FY 2022-23.

General Fund. The analysis assumes the bill would result in taxes applied only on in-state wagers in the pari-mutuel pool, in line with current practice and resulting in no increase in tax revenue. However, if in future years, money received by a licensee from an out-of-state simulcast facility after taxes, signal fees, and costs is subject to Colorado tax, the bill will increase revenue to the General Fund. Pari-mutuel tax revenue is subject to TABOR.

Supplemental Purse and Breeders Award Fund. Based on the assumption that the bill would result in a pari-mutuel pool for live events that is comprised of in-state wagers as noted above and is consistent with current practice, there would be no change in money to the fund. However, if in future years, money received by a licensee from an out-of-state simulcast facility after taxes, signal fees, and costs is subject to Colorado tax, the bill will increase revenue set aside for the fund. 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 and \$75 for a support occupational license. Fee revenue to the Racing Cash Fund is shown in Table 2. Minor business license fees are renewed every three years. 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 increase the amount of state revenue required to be refunded to taxpayers by \$31,500 for FY 2022-23. This estimate assumes the June 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, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

Effective Date

The bill was postponed indefinitely by the Senate Finance Committee on April 20, 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	