



HB 23-1041

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated January 23, 2023)

Drafting Number:	LLS 23-0250	Date:	February 2, 2023
Prime Sponsors:	Rep. Duran; Lynch Sen. Ginal; Simpson	Bill Status:	House Finance
		Fiscal Analyst:	Emily Dohrman 303-866-3687 emily.dohrman@coleg.gov

Bill Topic: PROHIBIT WAGERING ON SIMULCAST GREYHOUND RACES

Summary of Fiscal Impact:	<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
	<input checked="" type="checkbox"/> State Diversion	<input type="checkbox"/> Statutory Public Entity

The bill prohibits wagering on simulcast greyhound races and changes the funding mechanism for the Greyhound Welfare and Adoption Fund. It reduces state revenue and workload on an ongoing basis, and creates a diversion from the General Fund that is repealed in FY 2026-27.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill, as amended by the House Business Affairs and Labor Committee.

**Table 1
State Fiscal Impacts Under HB 23-1041**

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue	General Fund	(\$80,840)	(\$160,190)
	Cash Funds	(\$249,490)	(\$479,690)
	Total Revenue	(\$330,330)	(\$639,880)
Expenditures		-	-
Diversions	General Fund	(\$25,000)	(\$50,000)
	Cash Fund	\$25,000	\$50,000
	Net Diversion	\$0	\$0
Other Budget Impacts	TABOR Refund	(\$330,330)	(\$639,880)

Summary of Legislation

Under current law, live greyhound racing is not permitted in Colorado; however, wagering on greyhound racing that takes place outside of Colorado and is simulcast at in-state or out-of-state simulcast facilities is permitted. The bill prohibits wagering on greyhound races from simulcast facilities.

The bill also changes the funding mechanism for the Greyhound Welfare and Adoption Fund. Under current law, 0.25 percent of in-state simulcast greyhound wagers are deposited into this fund. The bill eliminates this source of funding by prohibiting simulcast greyhound wagering, and instead diverts \$25,000 in FY 2023-24 and \$50,000 per year thereafter into the fund from pari-mutuel tax revenue on horse racing, repealed in FY 2026-27.

Background

Pari-mutuel tax revenue from greyhound wagering. There are several simulcast facilities in Colorado that offer wagering on greyhound racing. Taxes are levied at a rate of 0.75 percent on gross receipts from wagering, prior to removal of the track or facility take and prior to the distribution of winnings. The tax revenue is deposited in the General Fund. Revenue from pari-mutuel taxes is subject to TABOR.

Greyhound Welfare and Adoption Fund. In addition to the amount attributable to the pari-mutuel tax described above, 0.25 percent of wagers are deposited into Greyhound Welfare and Adoption Fund, which is then disbursed to greyhound welfare and adoption agencies. Revenue to the Greyhound Welfare and Adoption Fund is subject to TABOR.

Horse Breeders' and Owners' Awards and Supplemental Purse Fund. Revenue to this fund is generated from a 0.5 percent tax on win-place-show wagers, a 1.5 percent tax on all other wagers, and unclaimed horse pari-mutuel tickets. Revenue in the fund is distributed to breeders' associations and owners and breeders of Colorado-bred horses and is subject to TABOR.

Source market fees. The state also collects a source market fee, which is a fee collected from out-of-state simulcast wagering facilities that accept wagers from Colorado residents via websites or mobile devices. The current source market fee rate is equal to 5.0 percent of gross receipts from wagering. The rate of the source market is set by the director of the Racing Division in the Department of Revenue such that revenue should approximate the costs associated with division's operations. Additionally, the director may allocate a portion of the source market fee to any horse purse trust account established in current law if they determine that such an allocation is necessary to maintain a sufficient and competitive purse structure. In practice, once the division has collected revenue up to its appropriated amount each fiscal year, any additional revenue is deposited into the Horse Purse Fund to be used as purse money for horse races held at live race meets in Colorado. Revenue from the source market fee is subject to TABOR.

Comparable Crime Analysis

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or creates a new factual basis for an existing crime. Using Judicial Department data, the following section outlines crimes that are comparable to the offense in this bill and discusses assumptions on future rates of criminal convictions resulting from the bill.

Prior conviction data and assumptions. This bill creates a new factual basis for the existing offense of violating a provision of Article 32 of Title 44, C.R.S.¹ by making it unlawful to wager on simulcast greyhound races. From FY 2019-20 to FY 2021-22, zero offenders have been sentenced and convicted for this offense; therefore, the fiscal note assumes that there will continue to be minimal or no additional criminal case filings or convictions for this offense under the bill. Because the bill is not expected to have a tangible impact on criminal justice-related revenue or expenditures at the state or local levels, these potential impacts are not discussed further in this fiscal note. Visit leg.colorado.gov/fiscalnotes for more information.

Assumptions

This fiscal note assumes that the source market fee rate will not be changed from its current rate of 5.0 percent.

State Revenue

The bill is expected to reduce state revenue to the General Fund and cash funds by \$330,330 in FY 2023-24 and \$639,880 in FY 2024-25. This revenue is shown in Table 2 and discussed below.

Table 2
Revenue Changes Under HB 23-1041

	FY 2023-24	FY 2024-25
Greyhound Pari-mutuel Tax	(\$80,840)	(\$160,190)
Greyhound Welfare and Adoption Fund	(\$26,945)	(\$53,400)
Source Market Fees	(\$93,870)	(\$182,110)
Horse Breeders' and Owners' Awards and Supplemental Purse Fund	(\$128,675)	(\$244,180)
Total Revenue	(\$330,330)	(\$639,880)

Greyhound pari-mutuel tax. Prohibiting wagering on greyhound races will eliminate pari-mutuel tax revenue from greyhound wagering at in-state simulcast facilities. This revenue is deposited into the General Fund.

¹ Section 44-32-801 (1), C.R.S.

Greyhound Welfare and Adoption Fund. Prohibiting wagering on greyhound races will eliminate the current source of funding for the Greyhound Welfare and Adoption Fund; most of this reduction is offset by a General Fund diversion, discussed below.

Horse Owners' and Breeders' and Supplemental Purse Fund. Prohibiting wagering on greyhound races will eliminate revenue to this fund from wagers on simulcast greyhound races. This will reduce the amount available to be distributed to horse breeding associations, horse owners and breeders, and supplemental purses.

Source market fee. Prohibiting wagering on greyhound races will eliminate revenue from the source market fee paid by out-of-state simulcast facilities on greyhound races. The source market fee funds the division of racing's operations, and any additional revenue is redirected into the Horse Purse Fund to be used as purse money for horse races. The amount redirected into the Horse Purse Fund is typically between \$500,000 and \$2,000,000. Therefore, the division is expected to remain fully funded under this bill.

State Diversions

The bill diverts \$25,000 in FY 2023-24 and \$50,000 per year thereafter from the General Fund to the Greyhound Welfare and Adoption Fund. This diversion is from horse pari-mutuel tax revenue that would have otherwise been deposited into the General Fund, and is instead deposited into the Greyhound Welfare and Adoption Fund. The diversion is repealed on August 1, 2026.

State Expenditures

The bill minimally decreases workload for the Division of Racing, which is responsible for compiling, auditing, and preparing reports associated with greyhound wagering in Colorado. Prohibiting wagering on greyhound racing eliminates this responsibility, resulting in a minimal decrease in workload for the Department of Revenue. No change in appropriations is required.

Other Budget Impacts

TABOR refunds. The bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the December 2022 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2024-25. Because TABOR refunds are paid from the General Fund, decreased cash fund revenue from the source market fee and the Horse Owners' and Breeders' and Supplemental Purse Fund will increase the amount of General Fund available to spend or save. Additionally, 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.

Technical Note

The bill requires the Department of Revenue to divert revenue from the pari-mutuel tax into the Greyhound Welfare and Adoption Fund on January 1st each year between January 1, 2024, and August 1, 2026. However, the department does not receive pari-mutuel tax revenue until the 10th of each month, and it is remitted to the State Treasurer on the 11th of the month for deposit into the General Fund. Thus, the department will not have possession of revenue on the required deposit date. In addition, the size of the diversion may exceed the amount of revenue collected in a single month. This fiscal note assumes that the bill will be amended to facilitate the deposit of these funds, or that the department will deposit revenue in its possession over a multi-month period following January 1 until sufficient revenue is deposited into the Greyhound Welfare and Adoption Fund.

Effective Date

The bill takes effect on January 1, 2024 assuming no referendum petition is filed. It applies to conduct occurring on or after that date.

State and Local Government

Human Services

Revenue